

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 secretary of state's records from another name for

1 purposes of this chapter and may adopt rules reasonable or necessary for making
2 these determinations.

3 4. This section and section 10-15-08.2 do not:

4 a. Abrogate or limit:

5 (1) The law of unfair competition or unfair practices;

6 (2) Chapter 47-25;

7 (3) The laws of the United States with respect to the right to acquire and protect
8 copyrights, trade names, trademarks, service names, and service marks; or

9 (4) Any other rights to the exclusive use of names or symbols; or

10 b. Derogate the common law or the principles of equity.

11 5. A cooperative that is involuntarily dissolved by the secretary of state under section
12 10-15-53.2 may reacquire the right to use that name by reinstating the cooperative
13 within the time provided in section 10-15-53.3 or by refiling articles of association,
14 unless the name has been adopted for use or reserved by another person, in which
15 case the filing must be rejected unless the filing is accompanied by a written consent
16 or judgment as provided in ~~subdivision d~~ of subsection 4~~2~~. A cooperative that is unable
17 to reacquire the use of its name shall adopt a new name that complies with this
18 section.

19 6. A cooperative that files its articles of association with an effective date later than the
20 date of filing as provided in section 10-15-07 shall maintain the right to the name until
21 the effective date.

22 **SECTION 2. AMENDMENT.** Section 10-19.1-13 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **10-19.1-13. Corporate name.**

25 1. The corporate name:

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

29 b. Must contain the word "company", "corporation", "incorporated", "limited", or an
30 abbreviation of one or more of these words.

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

- 1 purposes of this chapter and may adopt rules reasonable or necessary for making
2 these determinations.
- 3 3. If the secretary of state determines that a corporate name is "~~deceptively similar~~"
4 ~~to~~ indistinguishable in the secretary of state's records from another name for purposes
5 of this chapter, ~~then~~ the corporate name may not be used unless there is filed with the
6 articles:
- 7 a. The written consent of the holder of the rights to the name to which the proposed
8 name has been determined to be ~~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. This ~~subsection~~ section does not affect the right of a domestic corporation existing on
12 July 1, 1986, or a foreign corporation authorized to do business in this state on that
13 date to continue the use of its name.
- 14 5. This section and section 10-19.1-14 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 rights to the exclusive use of names or symbols; or
21 b. Derogate the common law or the principles of equity.
- 22 6. A domestic or foreign corporation that is the surviving organization in a merger with
23 one or more other organizations, or that acquires by sale, lease, or other disposition to
24 or exchange with an organization all or substantially all of the assets of another
25 organization including its name, may have the same name, subject to the
26 requirements of subsection 1, as that used in this state by any of the other
27 organizations, if the other organization whose name is sought to be used:
- 28 a. Was incorporated, organized, formed, or registered under the laws of this state;
29 b. Is authorized to transact business or conduct activities in this state;
30 c. Holds a reserved name in the manner provided in section 10-19.1-14,
31 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

- 1 d. Holds a fictitious name registered in the manner provided in chapter 45-11;
- 2 e. Holds a trade name registered in the manner provided in chapter 47-25; or
- 3 f. Holds a trademark or service mark registered in the manner provided in chapter
- 4 47-22.
- 5 7. The use of a name by a corporation in violation of this section does not affect or vitiate
- 6 its corporate existence. However, a court in this state may, upon application of the
- 7 state or of an interested or affected person, enjoin the corporation from doing business
- 8 under a name assumed in violation of this section, although its articles may have been
- 9 filed with the secretary of state and a certificate of incorporation issued.
- 10 8. A corporation whose period of existence has expired or ~~that~~ is involuntarily dissolved
- 11 by the secretary of state pursuant to section 10-19.1-146 or 10-19.1-146.1 may
- 12 reacquire the right to use that name by refiling articles of incorporation pursuant to
- 13 section 10-19.1-11, unless the name has been adopted for use or reserved by another
- 14 person, in which case the filing will be rejected unless the filing is accompanied by a
- 15 written consent or judgment as provided in subsection ~~23~~. A corporation that cannot
- 16 reacquire the use of its corporate name shall adopt a new corporate name that
- 17 complies with the provisions of this section:
- 18 a. By refiling articles of incorporation pursuant to section 10-19.1-11;
- 19 b. By amending pursuant to section 10-19.1-17; or
- 20 c. By reinstating pursuant to section 10-19.1-146.
- 21 9. Subject to section 10-19.1-133, this section applies to ~~any~~ foreign corporation
- 22 transacting business in this state, having a certificate of authority to transact business
- 23 in this state, or applying for a certificate of authority.
- 24 10. An amendment that only changes the name of the corporation may be authorized by a
- 25 resolution approved by the board and may, ~~but need not,~~ be submitted to and
- 26 approved by the shareholders as provided in section 10-19.1-18.
- 27 11. A corporation that files its articles of incorporation with an effective date later than the
- 28 date of filing as provided in section 10-19.1-12 shall maintain the right to the name
- 29 until the effective date.

30 **SECTION 3. AMENDMENT.** Section 10-32.1-11 of the North Dakota Century Code is

31 amended and reenacted as follows:

1 **10-32.1-11. Limited liability company name.**

2 1. The limited liability company name:

3 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 table;

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

10 c. May not contain:

11 (1) The word "corporation", "incorporated", "limited partnership", "limited liability
12 partnership", "limited liability limited partnership", or anyan abbreviation of
13 these words; or

14 (2) The words "limited" or "company" without association to the words "limited
15 liability company" or the abbreviations of these words as provided in
16 subsection b;

17 d. May not contain a word or phrase ~~that indicates~~indicating or ~~implies that~~implying
18 the limited liability company:

19 (1) Is organized for a purpose other than:

20 (a) A lawful business purpose for which a limited liability company may be
21 organized under this chapter; or

22 (b) For a purpose stated in its articles of organization; or

23 (2) May not be organized under this chapter; and

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

26 (1) The name, whether foreign and authorized to do business in this state or
27 domestic, unless there is filed with the articles a record which complies with
28 subsection 3, of:

29 (a) Another limited liability company;

30 (b) A corporation;

31 (c) A limited partnership;

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

- 1 disposition to or exchange with an organization all or substantially all of the assets of
2 another organization including its name, may have the same name, subject to the
3 requirements of subsection 1, as that used in this state by any of the other
4 organizations, if the organization whose name is sought to be used:
- 5 a. Was organized, incorporated, formed, or registered under the laws of this state;
 - 6 b. Is authorized to transact business or conduct activities in this state;
 - 7 c. Holds a reserved name in the manner provided in section 10-19.1-14,
8 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
 - 9 d. Holds a fictitious name registered in the manner provided in chapter 45-11;
 - 10 e. Holds a trade name registered in the manner provided in chapter 47-25; or
 - 11 f. Holds a trademark or service mark registered in the manner provided in
12 chapter 47-22.
- 13 6. The use of a name by a limited liability company in violation of this section does not
14 affect or vitiate its limited liability company existence. However, a court in this state
15 may, upon application of the state or of an interested or affected person, enjoin the
16 limited liability company from doing business under a name assumed in violation of
17 this section, although its articles of organization may have been filed with the secretary
18 of state and a certificate of organization issued.
- 19 7. A limited liability company whose period of existence has expired or that is
20 involuntarily terminated by the secretary of state pursuant to section ~~10-32.1-~~
21 8910-32.1-90 may reacquire the right to use that name by refiling articles of
22 organization pursuant to section 10-32.1-20, unless the name has been adopted for
23 use or reserved by another person, in which case the filing will be rejected unless the
24 filing is accompanied by a written consent or judgment pursuant to subsection ~~23~~. A
25 limited liability company that cannot reacquire the use of its limited liability company
26 name shall adopt a new limited liability company name which complies with the
27 provisions of this section:
- 28 a. By refiling the articles of organization pursuant to section 10-32.1-20;
 - 29 b. By amending pursuant to section 10-32.1-21; or
 - 30 c. By reinstating pursuant to section 10-32.1-91.

1 8. Subject to section 10-32.1-73, this section applies to anya foreign limited liability
2 company transacting business in this state, having a certificate of authority to transact
3 business in this state, or applying for a certificate of authority.

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

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

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

13 14. Filing a consent to use ofa name, ten dollars.

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

16 **10-33-10. Corporate name.**

17 1. The corporate name:

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

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

23 c. May not contain the words "limited liability company", "limited partnership",
24 "limited liability partnership", "limited liability limited partnership", or anyan
25 abbreviation of these words.

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

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

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

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

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

- 1 b. A certified copy of a judgment of a court in this state establishing the prior right of
2 the applicant to the use of the name in this state.
- 3 4. Subsection 3 does not affect the right of a corporation existing on August 1, 1997, or a
4 foreign corporation authorized to do business in this state on that date to continue the
5 use of its name.
- 6 5. This section and section 10-33-11 do 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, or service marks; or
- 12 (4) Any other rights to the exclusive use of names or symbols; or
- 13 b. Derogate the common law or the principles of equity.
- 14 6. A domestic or foreign corporation that is the surviving organization in a merger with
15 one or more other organizations, or that acquires by sale, lease, or other disposition to
16 or exchange with an organization all or substantially all of the assets of another
17 organization including its name, may have the same name, subject to the
18 requirements of subsection 1, as that used in this state by any of the other
19 organizations, if the other organization whose name is sought to be used:
- 20 a. Was incorporated, organized, formed, or registered under the laws of this state;
- 21 b. Is authorized to conduct activities or transact business 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 7. The use of a name by a corporation in violation of this section does not affect or vitiate
29 its corporate existence, but a court in this state may, upon application of the state or of
30 an interested or affected person, enjoin the corporation from conducting activities

1 under a name assumed in violation of this section, although its articles may have been
2 filed with the secretary of state and a certificate of incorporation issued.

3 8. A corporation whose period of existence has expired or that is involuntarily dissolved
4 by the secretary of state pursuant to section 10-33-139 may reacquire the right to use
5 that name by refiling articles of incorporation pursuant to section 10-33-08 unless the
6 name has been adopted for use or reserved by another person, in which case the
7 filing will be rejected unless the filing is accompanied by a written consent or judgment
8 pursuant to subsection 23. A corporation that cannot reacquire the use of its corporate
9 name must adopt a new corporate name that complies with the provisions of this
10 section:

- 11 a. By refiling articles of incorporation pursuant to section 10-33-08;
- 12 b. By amending pursuant to section 10-33-14; or
- 13 c. By reinstating pursuant to section 10-33-139.

14 9. Subject to section 10-33-126, this section applies to ~~any~~ foreign corporation
15 transacting business in this state, having a certificate of authority to transact business
16 in this state, or applying for a certificate of authority.

17 10. An amendment that only changes the name of the corporation may be authorized by a
18 resolution approved by the board and ~~may, but need not,~~ be submitted to and
19 approved by the members as provided in section 10-33-15.

20 11. A corporation that files its articles of incorporation with an effective date later than the
21 date of filing as provided in section 10-33-09 shall maintain the right to the name until
22 the effective date.

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

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

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

28 3. A domestic or foreign real estate investment trust shall register with the secretary of
29 state by submitting an application signed by a trustee which includes:

- 30 a. The name of the real estate investment trust which ~~may not be the same or~~
31 deceptively similar to must be distinguishable in the records of the secretary of

1 ~~state from~~ the name of ~~any other~~another real estate investment trust registered
2 with the secretary of state, or ~~anya~~ corporation, limited liability company, limited
3 partnership, limited liability partnership, limited liability limited partnership, or
4 ~~anya~~ name that is in some manner reserved with the secretary of state, ~~that is a~~
5 fictitious trade name registered as provided in chapter 45-11, ~~or that is a trade~~
6 name registered as provided in chapter 47-25, or is a trademark or service mark
7 registered as provided in chapter 47-22, unless there is filed with the secretary of
8 state a written consent of the holder of the ~~similar~~indistinguishable trade name to
9 use the name proposed by the real estate investment trust is filed with the
10 secretary of state. The name may not contain the word "corporation", "company",
11 "incorporated", "limited liability company", or ~~anyan~~ abbreviation of these words.
12 The secretary of state shall determine whether a name is distinguishable in the
13 secretary of state's records and may adopt rules reasonable or necessary for
14 making these determinations.

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

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

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

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

28 **45-10.2-10. Limited partnership name.**

- 29 1. The name of each limited partnership as set forth in the certificate of limited
30 partnership:

- 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 (ASCII) table.
- 4 b. Must contain without abbreviation the words "limited partnership" or the
5 abbreviation "L.P." or "LP", either of which abbreviations may be used
6 interchangeably for all purposes authorized by this chapter, including real estate
7 matters, contracts, and filings with the secretary of state.
- 8 c. May contain the name of anya partner.
- 9 d. May not contain the word "corporation", "company", "incorporated", "limited
10 liability company", "limited liability partnership", "limited liability limited
11 partnership", or anyan abbreviation of these words.
- 12 e. May not contain a word or phrase ~~that indicates~~indicating or ~~implies that~~implying
13 the limited partnership:
- 14 (1) Is organized for a purpose other than:
- 15 (a) A lawful purpose for which a limited partnership may be organized
16 under this chapter; or
- 17 (b) For a purpose stated in its certificate of limited partnership; or
- 18 (2) May not be organized under this chapter.
- 19 f. ~~May not be the same as or deceptively similar to~~Must be distinguishable in the
20 records of the secretary of state from:
- 21 (1) The name, whether foreign and authorized to do business in this state or
22 domestic, unless there is filed with the certificate of limited partnership a
23 record in compliance with subsection 3, of:
- 24 (a) Another limited partnership;
- 25 (b) A corporation;
- 26 (c) A limited liability company;
- 27 (d) A limited liability partnership; or
- 28 (e) A limited liability limited partnership;
- 29 (2) A name the right to which is, at the time of the filing of the certificate of
30 limited partnership, reserved in the manner provided in section 10-19.1-14,
31 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

- 1 (3) A fictitious name registered in the manner provided in chapter 45-11;
- 2 (4) A trade name registered in the manner provided in chapter 47-25; or
- 3 (5) A trademark or service mark registered in the manner provided in chapter
- 4 47-22.
- 5 2. The secretary of state shall determine whether a limited partnership name is
- 6 ~~deceptively similar to~~indistinguishable in the secretary of state's records from another
- 7 name for purposes of this chapter and may adopt rules reasonable or necessary for
- 8 making these determinations.
- 9 3. If the secretary of state determines a limited partnership name is ~~deceptively similar-~~
- 10 ~~to~~indistinguishable in the secretary of state's records from another name for purposes
- 11 of this chapter, ~~then~~ the limited partnership name may not be used unless there is filed
- 12 with the articles:
- 13 a. The written consent of the holder of the registered trade name or the holder of
- 14 the rights to the name to which the proposed name has been determined to be
- 15 ~~deceptively similar~~indistinguishable; or
- 16 b. A certified copy of a judgment of a court in this state establishing the prior right of
- 17 the applicant to the use of the name in this state.
- 18 4. Subsection 3 does not affect the right of a limited partnership existing on the effective
- 19 date of this chapter, or a foreign limited partnership authorized to do business in this
- 20 state on that date, to continue the use of its name.
- 21 5. This section and section 45-10.2-11 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 right to the exclusive use of names or symbols; or
- 28 b. Derogate the common law or the principles of equity.
- 29 6. A limited partnership that is the surviving organization in a merger with one or more
- 30 organizations, or that acquires by sale, lease, or other disposition to or exchange with
- 31 an organization all or substantially all of the assets of another organization including its

- 1 name, may include in its name, subject to the requirements of subsection 1, the name
2 of any of the organizations, if the other organization whose name is sought to be used:
- 3 a. Was incorporated, organized, 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 chapter
10 47-22.
- 11 7. The use of a name by a limited partnership in violation of this section does not affect
12 or vitiate its limited partnership existence. However, a court in this state may, upon
13 application of the state or of an interested or affected person, enjoin the limited
14 partnership from doing business under a name assumed in violation of this section,
15 although its certificate of limited partnership may have been filed with the secretary of
16 state.
- 17 8. A limited partnership whose period of existence has expired or that is involuntarily
18 dissolved by the secretary of state as provided in section 45-10.2-108 or
19 45-10.2-108.1 may reacquire the right to use that name by refiling a certificate of
20 limited partnership pursuant to section 45-10.2-23 unless the name has been adopted
21 for use or reserved by another person, in which case the filing will be rejected unless
22 the filing is accompanied by a written consent or judgment pursuant to subsection 3. A
23 limited partnership that cannot reacquire the use of its limited partnership name shall
24 adopt a new limited partnership name that complies with this section by refiling a
25 certificate of limited partnership as provided in section 45-10.2-23; by amending its
26 certificate of limited partnership as provided in section 45-10.2-24; or by reinstating the
27 limited partnership pursuant to section 45-10.2-108. If the new limited partnership
28 name has been adopted for use or reserved by another person, the filing will be
29 rejected unless the filing is accompanied by a written consent or judgment as provided
30 in subsection 3.

1 9. Subject to section 45-10.2-78, this section applies to ~~anya~~ foreign limited partnership
2 transacting business in this state, having a certificate of authority to transact business
3 in this state, or applying for a certificate of authority.

4 10. A limited partnership ~~that files~~filing its certificate of limited partnership with an effective
5 date later than the date of filing as provided in subsection 3 of section 45-10.2-27 shall
6 maintain the right to the name until the effective date.

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

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

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

12 **45-11-01. Partnership - Use of fictitious name.**

- 13 1. As used in this section, "fictitious name" means a name assumed to identify a
14 partnership and which does not include in its name:
- 15 a. The true name of each organizational partner;
 - 16 b. The first name and surname of each partner; or
 - 17 c. The surname of each partner, repeating a surname if more than one partner has
18 the same surname.
- 19 2. ~~Any~~A partnership transacting business in this state under a fictitious name or under a
20 designation ~~that does not show~~showing the names of the persons interested as
21 partners must file a fictitious name certificate with the secretary of state, together with
22 a filing fee of twenty-five dollars. When a partnership has more than two members, an
23 additional three dollars must be paid for each additional member not to exceed two
24 hundred fifty dollars. A limited partnership or a foreign limited partnership transacting
25 business under a name filed under chapter 45-10.2 and as provided in section
26 45-11-03 or a partnership transacting business under a name filed under section
27 45-13-05 is not required to file a fictitious name certificate under this section.
- 28 3. The fictitious name:
- 29 a. Must be expressed in letters or characters used in the English language as those
30 letters or characters appear in the American standard code for information
31 interchange (ASCII) table.

- 1 b. May not contain the word "corporation", "company", "incorporated", "limited
2 liability company", or "limited", or an abbreviation of any of those words. This
3 subsection does not preclude the word "limited" from being used in conjunction
4 with the word "partnership".
- 5 c. ~~May not be the same as or deceptively similar to any~~Must be distinguishable in
6 the records of the secretary of state from a name reserved or registered with the
7 secretary of state unless there is filed with the fictitious name certificate a written
8 consent from the holder of the ~~similar~~indistinguishable name to use the proposed
9 name and filing fee of ten dollars, whether domestic or foreign, including:
- 10 (1) ~~Any~~A corporate name;
11 (2) ~~Any~~A limited liability company name;
12 (3) ~~Any~~A trade name;
13 (4) Any other fictitious partnership name;
14 (5) ~~Any~~A limited partnership name;
15 (6) ~~Any~~A limited liability partnership name;
16 (7) ~~Any~~A limited liability limited partnership name; or
17 (8) ~~Any~~A trademark or service mark.
- 18 4. The secretary of state shall determine whether a fictitious partnership name is
19 distinguishable in the secretary of state's records from another name for purposes of
20 this chapter and may adopt rules reasonable or necessary for making these
21 determinations.

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

24 **45-13-04.1. Partnership name.**

- 25 1. A partnership name filed in a statement under section 45-13-05:
- 26 a. Must be in the English language or in any other language expressed in English
27 letters or characters;
- 28 b. May contain the name of ~~anya~~anya partner;
- 29 c. May not contain the word "corporation", "company", "incorporated", "limited
30 liability company", "limited partnership", "limited liability partnership", "limited
31 liability limited partnership", or ~~anyan~~anyn abbreviation of these words;

- 1 d. May not contain a word or phrase that indicates or implies that the partnership:
2 (1) Is organized for a purpose other than a lawful purpose for which a
3 partnership may be organized under this chapter; or
4 (2) May not be formed under this chapter; and
5 e. ~~May not be the same as, or deceptively similar to~~Must be distinguishable in the
6 records of the secretary of state from:
7 (1) The name, whether foreign and authorized to do business in this state or
8 domestic, unless filed with the statement is a record which complies with
9 subsection 3 of:
10 (a) Another partnership;
11 (b) A limited liability company;
12 (c) A corporation;
13 (d) A limited partnership;
14 (e) A limited liability partnership; or
15 (f) A limited liability limited partnership;
16 (2) A name, the right of which is, at the time of filing, reserved in the manner
17 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; ~~or~~
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 partnership name is ~~deceptively-~~
24 ~~similar to~~distinguishable in the secretary of state's 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 partnership name is ~~deceptively similar-~~
28 ~~to~~indistinguishable in the secretary of state's records from another name for purposes
29 of this chapter, ~~then~~ the partnership name may not be used unless there is filed with
30 the statement:

- 1 a. The written consent of the holder of the rights to the name to which the proposed
2 name is determined to be ~~deceptively similar~~indistinguishable; or
- 3 b. A certified copy of a judgment of a court in this state establishing the earlier right
4 of the applicant to the use of the name in this state.
- 5 4. This section does not affect the right of a partnership existing on July 1, 1999, or a
6 foreign partnership authorized to do business in this state on July 1, 1999, to continue
7 the use of the foreign partnership's name.
- 8 5. This section and section 45-13-04.2 do not:
- 9 a. Abrogate or limit the law of unfair competition or unfair practices; chapter 47-25;
10 the laws of the United States with respect to the right to acquire and protect
11 copyrights, trade names, trademarks, service names, service marks; or any other
12 rights to the exclusive use of a name or symbol.
- 13 b. Derogate the common law or any principle of equity.
- 14 6. A partnership that is the surviving organization in a merger with one or more other
15 organizations, or that acquires by sale, lease, or other disposition to or exchange with
16 an organization all or substantially all of the assets of another organization including its
17 name, may have the same name, subject to the requirements of subsection 1, as that
18 used in this state by any of the other organizations if the other organization whose
19 name is sought to be used:
- 20 a. Is formed 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, 10-32-11,
23 10-32.1-12, 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; or
- 25 e. Holds a trade name registered in the manner provided in chapter 47-25.
- 26 7. The use of a name by a partnership in violation of this section does not affect or vitiate
27 the partnership existence of the partnership. However, a court in this state may, upon
28 application of the state or of an interested or affected person, enjoin the partnership
29 from doing business under a name assumed in violation of this section, although a
30 statement may have been filed with the secretary of state.

- 1 8. If the period of existence of the partnership is expired or a statement of a partnership
2 filed under section 45-13-05 is expired, then the partnership may reacquire the right to
3 use that name by refiling a statement pursuant to section 45-13-05, unless the name
4 was adopted for use or reserved by another person, in which case the filing must be
5 rejected unless the filing is accompanied by a written consent or judgment pursuant to
6 subsection 3. A partnership that cannot reacquire the use of its partnership name shall
7 adopt a new partnership name that complies with this section.

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

10 **45-22-04. Limited liability partnership - Name.**

- 11 1. The name of a limited liability partnership:
- 12 a. Must be expressed in letters or characters in the English language as those
13 letters or characters appear in the American standard code for information
14 interchange (ASCII) table.
- 15 b. Must contain the words "limited liability partnership" or the abbreviation "L.L.P." or
16 the abbreviation "LLP", either of which abbreviations may be used
17 interchangeably for all purposes authorized by this chapter, including real estate
18 matters, contracts, and filings with the secretary of state.
- 19 c. May not contain the word "corporation", "company", "incorporated", "limited
20 liability company", "limited partnership", "limited liability limited partnership", or
21 ~~any~~an abbreviation of these words.
- 22 d. May not contain a word or phrase ~~that indicates~~indicating or ~~that implies~~
23 ~~that~~implying the limited liability partnership:
- 24 (1) Is formed for a purpose other than:
- 25 (a) A lawful purpose for which a limited liability partnership may be
26 formed under this chapter; or
- 27 (b) For a purpose stated in its registration; or
- 28 (2) May not be formed under this chapter.
- 29 e. ~~May not be the same as or deceptively similar to~~Must be distinguishable in the
30 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 there is filed with the registration a record that complies
3 with subsection 3, of:
- 4 (a) Another limited liability partnership;
5 (b) A corporation;
6 (c) A limited liability company;
7 (d) A limited partnership; or
8 (e) A limited liability limited partnership;
- 9 (2) A name, the right to which is at the time of registration reserved in the
10 manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,
11 45-13-04.2, or 45-22-05;
- 12 (3) A fictitious name registered in the manner provided in chapter 45-11;
13 (4) A trade name registered in the manner provided in chapter 47-25; or
14 (5) A trademark or service mark registered in the manner provided in chapter
15 47-22.
- 16 f. Need not be filed as provided in chapter 45-11 except if transacting business
17 under a name other than the name as registered under this chapter.
- 18 2. The secretary of state shall determine whether a name is ~~deceptively similar~~
19 to distinguishable in the secretary of state's records from another name for purposes of
20 this chapter and may adopt rules reasonable or necessary for making these
21 determinations.
- 22 3. If the secretary of state determines ~~that~~ a limited liability partnership name is
23 ~~deceptively similar to~~ indistinguishable in the secretary of state's records from another
24 name for purposes of this chapter, the limited liability partnership name may not be
25 used unless there is filed with the registration:
- 26 a. The written consent of the holder of the rights to the name to which the proposed
27 name has been determined to be ~~deceptively similar~~ indistinguishable; or
28 b. A certified copy of a judgment of a court in this state establishing the earlier right
29 of the applicant to the use of the name in this state.
- 30 4. This section and section 45-22-05 do not:
- 31 a. Abrogate or limit:

- 1 (1) The law of unfair competition or unfair practices;
- 2 (2) Chapter 47-25;
- 3 (3) The laws of the United States with respect to the right to acquire and protect
- 4 copyrights, trade names, trademarks, service names, and service marks; or
- 5 (4) Any other rights to the exclusive use of names or symbols.
- 6 b. Derogate the common law or principles of equity.
- 7 5. A limited liability partnership that is the surviving organization in a merger with one or
- 8 more organizations, or that acquires by sale, lease, or other disposition to or exchange
- 9 with a domestic organization all or substantially all of the assets of another
- 10 organization including its name, may have the same name, subject to the
- 11 requirements of subsection 1, as that used in this state by any of the other
- 12 organizations, if the other organization whose name is sought:
- 13 a. Is incorporated, organized, formed, or registered under the laws of this state;
- 14 b. Is authorized to transact business or conduct activities in this state;
- 15 c. Holds a reserved name in the manner provided in section 10-19.1-14,
- 16 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
- 17 d. Holds a fictitious name registered in the manner provided in chapter 45-11;
- 18 e. Holds a trade name registered in the manner provided in chapter 47-25; or
- 19 f. Holds a trademark or service mark registered in the manner provided in chapter
- 20 47-22.
- 21 6. The use of a name by a limited liability partnership in violation of this section does not
- 22 affect or vitiate the limited liability partnership's status as a limited liability partnership.
- 23 However, a court of this state may, upon application of the state or of an interested or
- 24 affected person, enjoin the limited liability partnership from doing business under a
- 25 name assumed in violation of this section, even though the limited liability
- 26 partnership's registration may have been filed with the secretary of state.
- 27 7. A limited liability partnership whose registration has expired or whose registration has
- 28 been forfeited as provided in section 45-22-21.1 may reacquire the right to use that
- 29 name by refiling a registration as provided in section 45-22-03 unless the name has
- 30 been adopted for use or reserved by another person, in which case the filing will be
- 31 rejected unless the filing is accompanied by a written consent or judgment pursuant to

- 1 subsection 3. A limited liability partnership that cannot reacquire the use of its limited
2 liability partnership name shall adopt a new limited liability partnership name that
3 complies with this section:
- 4 a. By refiling a registration as provided in section 45-22-03;
5 b. By amending its registration as provided in section 45-22-03; or
6 c. By reinstating the limited liability partnership pursuant to section 45-22-21.1,
7 unless the name has been adopted for use or reserved by another person, in
8 which case the filing will be rejected unless the filing is accompanied by a written
9 consent or judgment as provided in subsection 3.
- 10 8. With respect to foreign limited liability partnerships:
- 11 a. A foreign limited liability partnership may register under any name that would be
12 available to a domestic limited liability partnership, regardless of whether the
13 name is the same under which the foreign limited liability partnership is
14 authorized in the jurisdiction of original registration.
- 15 b. A fictitious name certificate must be filed as provided in chapter 45-11 only if
16 registering under a name other than the name as authorized in the jurisdiction of
17 original registration.
- 18 9. A limited liability partnership that files its registration with an effective date later than
19 the date of filing as provided in subsection 9 of section 45-22-03 shall maintain the
20 right to the name until the effective date.

21 **SECTION 14. AMENDMENT.** Section 45-23-03 of the North Dakota Century Code is
22 amended and reenacted as follows:

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

- 24 1. The name of each limited liability limited partnership as set forth in the limited liability
25 limited partnership's certificate of limited liability limited partnership:
- 26 a. Must be expressed in letters or characters used in the English language as those
27 letters or characters appear in the American standard code for information
28 interchange (ASCII) table.
- 29 b. Must contain without abbreviation the words "limited liability limited partnership"
30 or the abbreviation "L.L.L.P." or "LLLLP", either of which abbreviation may be used

- 1 interchangeably for any purpose authorized by this chapter including real estate
2 matters, contracts, and filings with the secretary of state.
- 3 c. May contain the name of ~~anya~~ partner.
- 4 d. May not contain the word "corporation", "company", "incorporated", "limited
5 liability company", "limited liability partnership", or ~~anyan~~ abbreviation of these
6 words.
- 7 e. May not contain a word or phrase ~~that indicates~~indicating or ~~that implies~~
8 ~~that implying~~ the limited liability limited partnership:
- 9 (1) Is organized for a purpose other than:
- 10 (a) A lawful purpose for which a limited liability limited partnership may be
11 organized under this chapter; or
- 12 (b) For a purpose stated in its certificate of limited liability limited
13 partnership; or
- 14 (2) May not be organized under this chapter.
- 15 f. ~~May not be the same as, or deceptively similar to~~Must be distinguishable in the
16 records of the secretary of state from:
- 17 (1) The name, whether foreign and authorized to do business in this state or
18 domestic, unless there is filed with the certificate a record in compliance
19 with subsection 3, of:
- 20 (a) Another limited liability limited partnership;
- 21 (b) A limited partnership;
- 22 (c) A corporation;
- 23 (d) A limited liability company; or
- 24 (e) A limited liability partnership;
- 25 (2) A name the right to which is, at the time of organization, reserved in the
26 manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,
27 45-13-04.2, or 45-22-05;
- 28 (3) A fictitious name registered in the manner provided in chapter 45-11;
- 29 (4) A trade name registered in the manner provided in chapter 47-25; or
- 30 (5) A trademark or service mark registered in the manner provided in chapter
31 47-22.

- 1 2. The secretary of state shall determine whether a limited liability limited partnership
2 name is ~~deceptively similar to~~distinguishable in the **secretary of state's** records from
3 another name for purposes of this chapter and may adopt rules reasonable or
4 necessary for making these determinations.
- 5 3. If the secretary of state determines a limited liability limited partnership name is
6 ~~deceptively similar to~~indistinguishable in the **secretary of state's** records from another
7 name for purposes of this chapter, the limited liability limited partnership name may not
8 be used unless there is filed with the certificate:
- 9 a. The written consent of the holder of the registered trade name or the holder of
10 the rights to the name to which the proposed name has been determined to be
11 ~~deceptively similar~~indistinguishable; or
- 12 b. A certified copy of a judgment of a court in this state establishing the earlier right
13 of the applicant to the use of the name in this state.
- 14 4. This section does 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 rights to the exclusive use of any name or symbol.
- 21 b. This section does not derogate the common law or the principles of equity.
- 22 5. A limited liability limited partnership that is the surviving organization in a merger with
23 one or more organizations, or that acquires by sale, lease, or other disposition to or
24 exchange with an organization all or substantially all of the assets of another
25 organization, including its name, may include in the limited liability limited partnership's
26 name, subject to the requirements of subsection 1, the name of any of the other
27 organizations, if the other organization whose name is sought to be used:
- 28 a. Is incorporated, organized, formed, or registered under the laws of this state;
- 29 b. Is authorized to transact business or conduct activities in this state;
- 30 c. Holds a reserved name in the manner provided in section 10-19.1-14,
31 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

- 1 d. Holds a fictitious name registered in the manner provided in chapter 45-11;
- 2 e. Holds a trade name registered in the manner provided in chapter 47-25; or
- 3 f. Holds a trademark or service mark registered in the manner provided in chapter
- 4 47-22.
- 5 6. The use of a name of a limited liability limited partnership in violation of this section
- 6 does not affect or vitiate a limited liability limited partnership's existence. However, a
- 7 court in this state may, upon application of the state or of an interested or affected
- 8 person, enjoin the limited liability limited partnership from doing business under a
- 9 name assumed in violation of this section, although a certificate of limited liability
- 10 limited partnership may have been filed with the secretary of state.
- 11 7. A limited liability limited partnership whose period of existence has expired or that is
- 12 involuntarily dissolved by the secretary of state pursuant to section 45-10.2-108 or
- 13 45-10.2-108.1 may reacquire the right to use that name by refiling a certificate of
- 14 limited liability limited partnership pursuant to section 45-23-04, unless the name has
- 15 been adopted for use or reserved by another person, in which case the filing will be
- 16 rejected unless the filing is accompanied by a written consent or judgment as provided
- 17 in subsection 3. A limited liability limited partnership that cannot reacquire the use of its
- 18 limited liability limited partnership name shall adopt a new limited liability limited
- 19 partnership name that complies with the provisions of this section:
- 20 a. By refiling the certificate of limited liability limited partnership pursuant to section
- 21 45-23-04;
- 22 b. By amending pursuant to section 45-10.2-24; or
- 23 c. By reinstating pursuant to section 45-10.2-108, unless the name has been
- 24 adopted for use or reserved by another person, in which case the filing will be
- 25 rejected unless the filing is accompanied by a written consent or judgment
- 26 pursuant to subsection 3.
- 27 8. Subject to section 45-23-07, this section applies to ~~any~~ foreign limited liability limited
- 28 partnership transacting business in this state, having a certificate of authority to
- 29 transact business in this state, or applying for a certificate of authority.
- 30 9. A limited liability limited partnership that files its certificate of limited liability limited
- 31 partnership with an effective date later than the date of filing as provided in

1 subsection 1 of section 45-23-05 shall maintain the right to the name until the effective
2 date.

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

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

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

8 **47-25-03. Trade name - Nature.**

9 1. A trade name:

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

13 2. b. May not contain the word "company", "corporation", "incorporated", "limited",
14 "limited liability company", "limited partnership", "limited liability partnership",
15 "limited liability limited partnership", or any abbreviation of any of those words
16 unless the owner of the trade name is a corporation, limited liability company,
17 limited partnership, limited liability partnership, or limited liability limited
18 partnership as indicated by the words used in the name.

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

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

25 a. ~~Any~~

26 (1) A corporate name;

27 b. ~~Any~~

28 (2) A limited liability company name;

29 e. (3) Any other trade name;

30 d. ~~Any~~

31 (4) A fictitious partnership name;

- 1 e. Any
2 (5) A limited partnership name;
3 f. Any
4 (6) A limited liability partnership name;
5 g. Any
6 (7) A limited liability limited partnership name; or
7 h. Any
8 (8) A trademark or service mark.
9 4. d. That is a franchise must be accompanied by a written consent from the
10 franchiser.
11 2. The secretary of state shall determine whether a trade name is distinguishable in the
12 secretary of state's records from another trade name for purposes of this chapter and
13 may adopt rules reasonable or necessary for making these determinations.

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