

**CHAPTER 85-04-08**  
**LAND SALES UNDER NORTH DAKOTA CENTURY CODE CHAPTER 15-07**

Section

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**85-04-08-01. Sale of acquired lands.**

The board shall retain and manage acquired lands to produce revenue consistent with the long-term maintenance of the acquired lands' income producing potential and ecological health until sold. The commissioner may propose the sale of acquired lands if the lands have been evaluated for "highest and best use" as defined in North Dakota Century Code section 15-02-05.1 and the department considers the following criteria:

1. If a tract is acquired through foreclosure or deed in lieu of foreclosure from the board's loan pool account, established under North Dakota Century Code section 15-03-04.1, after January 1, 2020;
2. If the tract has been zoned or has high potential to be zoned residential, commercial, industrial, or similar zoning type;
3. If the tract has been a source of persistent management problems, resulting in the sale of the tract being prudent from a long-term financial point of view;
4. If the tract and adjacent trust land tracts total less than eighty acres [32.37 hectares] in size, more or less, for grassland and less than forty acres [16.19 hectares], more or less, for cropland or hayland, except those tracts which are severed by a highway, road, railroad, canal, river, or lake, which may be sold if the severed portion is less than these amounts; or
5. If the tract and adjacent trust land tracts exceed eighty acres [32.37 hectares] in size, more or less, for grassland or more than forty acres [16.19 hectares] in size, more or less, for cropland.

**History:** Effective January 1, 2021; amended effective April 1, 2026.

**General Authority:** N.D. Constitution article IX, § 6; NDCC 15-01-02, 28-32-02

**Law Implemented:** NDCC 15-07, 15-08

**85-04-08-02. Requirements of no net loss sale.**

A sale of acquired lands, with the exception of tracts provided in subsections 1, 2, 3, and 4 of section 85-04-08-01, is subject to the following:

1. The proposed sale must result in no net loss of leasable acquired lands; and
2. The land provided as consideration must provide accessible and leasable land equal or greater in acres, unless otherwise provided in this section, and value to the trust from which the acquired lands were sold, for which the department then shall consider the criteria listed below for any no net loss sale. Land provided for a no net loss sale is not required to satisfy all criteria outlined below. Criteria will be considered in a cumulative manner and meeting certain criteria may not guarantee approval.

- a. A no net loss sale must result in the board receiving equal or greater asset value to the trusts. Any appraisals considered by the department must include appraised values for both the trust lands highest and best use as well as the current use.
  - b. The department may consider features not reflected in the market price to which it is difficult to assign a monetary value, including location, proximity to public lands, recreational opportunities, scenery, other amenities, and results of cultural resources inventories in evaluating the relative value of trust lands.
  - c. A no net loss sale must result in the board receiving equal or greater income to the trusts. The projected agricultural income for the proposed no net loss sale land must be estimated using the board's minimum lease rate. The minimum lease rate for the proposed no net loss sale land must be compared to the present income received by the trusts from the trust lands, including all current and potential future revenue streams from surface leases, encumbrances, development of natural resources, and other sources, and any tax liability.
  - d. A no net loss sale must result in the board receiving equal or greater acreage, except the board may consider receiving less acreage in return for one or more of the following:
    - (1) Improved dedicated access;
    - (2) Substantially higher value in relation to the amount of acres lost; or
    - (3) Substantially higher income in relation to the amount of acres lost.
  - e. The proposed no net loss sale may not fragment trust land holdings by creating isolated parcels of trust land.
  - f. The proposed no net loss sale land must have similar income and value potential as the trust lands.
  - g. A no net loss sale may not diminish access to trust lands. The no net loss land should provide equal or improved access.
3. In connection with any no net loss sale, the department may consider all available information, including information provided by the applicant or the department's own knowledge, regarding lands and resources to estimate value for purposes of a preliminary evaluation, including completion of an environmental assessment.
  4. In all no net loss sales, the board shall reserve all minerals underlying the trust lands pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law.

**History:** Effective January 1, 2021; amended effective April 1, 2026.

**General Authority:** N.D. Constitution article IX, § 6; NDCC 15-01-02, 28-32-02

**Law Implemented:** NDCC 15-07, 15-08

**85-04-08-03. No net loss sale procedure.**

1. The department may recommend a tract of land that meets the criteria of section 85-04-08-02 to the commissioner for consideration for a no net loss sale.
2. If the commissioner determines to proceed with the sale, the commissioner shall present to the board the proposed no net loss land sale for preliminary review. Upon a determination the board is willing to sell, the department shall:
  - a. Notify the lessee if the lands are leased.

- b. Publish a notice of sale, that includes a request for bidders, in accordance with the procedures set out in North Dakota Century Code chapter 15-06. The notice of sale must contain:
    - (1) The legal description of the proposed trust land tract to be sold;
    - (2) Instructions on how to register to bid; and
    - (3) Deadline for bidders to register.
  - c. Obtain all appraisals from a certified appraiser for tracts to be sold and for lands provided for consideration, as follows:
    - (1) Appraisals must be obtained in accordance with the procedures set out in North Dakota Century Code sections 15-06-22 and 15-06-23.
    - (2) Appraisals for trust lands and the proposed no net loss sale land must be appraised by the same certified appraiser.
    - (3) If the commissioner is not satisfied with the appraisals, the commissioner may require additional appraisals by alternative certified appraisers.
  - d. Solicit public comment regarding the proposed sale. All comments must be in writing and include the following:
    - (1) Name and address of the interested person;
    - (2) The legal description of the proposed tract for sale as shown on the published notice; and
    - (3) A detailed statement as to whether the interested person supports or opposes the sale.
3.
    - a. To register, bidders shall provide the following:
      - (1) A nonrefundable application fee; and
      - (2) A legal description of the lands to be provided for consideration.
    - b. Bidders shall agree to an offer to purchase that contains the following:
      - (1) Bidder is subject to all costs associated to the bidder review and sale process, including:
        - (a) Appraisal costs;
        - (b) Title examination; and
        - (c) Legal survey, if deemed necessary by the commissioner.
      - (2) Bidder agrees to allow the department and its agents access to the lands offered for consideration or shall obtain access on department's behalf.
    - c. The department shall review the lands proposed by each potential bidder to determine if they meet the criteria under section 85-04-07-02.
  4. The board shall review all approved registered bidders, including appraisals, land offered as consideration, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the board decides to proceed with the sale,

the board shall establish a minimum acceptable sale price and the following shall be conducted:

- a. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property.
  - b. The commissioner shall conduct an auction pursuant to North Dakota Century Code chapter 15-07.
  - c. A purchase agreement must be executed with the winning bidder at the closing of the sale. The purchase agreement must require that the purchaser:
    - (1) Pay twenty percent of the purchase price at the time the purchase agreement is executed; and
    - (2) Convey the land used as consideration within sixty calendar days after execution of the agreement. The commissioner may extend the deadline to convey, at the commissioner's sole discretion, up to a maximum of one hundred eighty days after execution of the purchase agreement.
  - d. If no bids are received at auction, the tract may be sold for the board-established minimum acceptable sale price to the first interested party at a private sale during the six months following the date of the auction.
5. Acquired lands acquired after January 1, 2020, may be sold to any mortgagor or a member of the mortgagor's immediate family under North Dakota Century Code section 15-07-10. The sale must be for cash only with twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.

**History:** Effective January 1, 2021; amended effective April 1, 2026.

**General Authority:** N.D. Constitution article IX, § 6; NDCC 15-01-02, 28-32-02

**Law Implemented:** NDCC 15-07, 15-08

#### **85-04-08-04. Payment of costs.**

The purchaser is responsible for payment of costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

**History:** Effective January 1, 2021; amended effective April 1, 2026.

**General Authority:** N.D. Constitution article IX, § 6; NDCC 15-01-02, 28-32-02

**Law Implemented:** NDCC 15-07, 15-08

#### **85-04-08-05. Board review.**

Within thirty days of a decision under these rules, an aggrieved party may request the commissioner review the decision. The aggrieved party seeking review shall submit any information required by the commissioner as part of this request. Within thirty days of the commissioner's review, the aggrieved party may request board review and the commissioner shall determine if board review is warranted.

**History:** Effective January 1, 2021; amended effective April 1, 2026.

**General Authority:** N.D. Constitution article IX, § 6; NDCC 15-01-02, 28-32-02

**Law Implemented:** NDCC 15-07, 15-08