

HOUSE BILL NO. 1033

Introduced by

Legislative Council

(Agriculture Committee)

1 A BILL for an Act to amend and reenact section 51-08.1-06 of the North Dakota Century Code,
2 relating to an investigation of an antitrust violation.

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

4 **SECTION 1. AMENDMENT.** Section 51-08.1-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **51-08.1-06. Official investigation.**

- 7 1. If the attorney general has reasonable cause to believe that a person has
8 information or is in possession, custody, or control of any document or other
9 tangible object relevant to an investigation for violation of this chapter, the attorney
10 general may serve upon the person, before bringing any action in the district court,
11 a written demand to appear and be examined under oath, to answer written
12 interrogatories under oath, and to produce the document or object for inspection
13 and copying. The demand must:
- 14 a. Be served upon the person in the manner required for service of process in
 - 15 this state;
 - 16 b. Describe the nature of the conduct constituting the violation under
 - 17 investigation;
 - 18 c. Describe the document or object with sufficient definiteness to permit it to be
 - 19 fairly identified;
 - 20 d. Contain a copy of the written interrogatories;
 - 21 e. Prescribe a reasonable time at which the person must appear to testify, within
 - 22 which to answer the written interrogatories, and within which the document or
 - 23 object must be produced, and advise the person that a reasonable opportunity
 - 24 will be afforded for examination and notation of corrections upon any

transcript of an oral examination, that a copy of one's own transcript can be obtained upon payment of reasonable charges, and that objections to or reasons for not complying with the demand may be filed with the attorney general at or before the designated time;

f. Specify a place for the taking of testimony or for production and designate a person who shall be custodian of the document or object; and

g. Contain a copy of subsection 2.

2. If a person objects to or otherwise fails to comply with the written demand served upon that person under subsection 1, the attorney general may file in the district court of the county in which the person resides, or in which the person maintains a principal place of business within this state, a petition for an order to enforce the demand. Notice of hearing the petition and a copy of the petition must be served upon the person, who may appear in opposition to the petition. If the court finds that the demand is proper, there is reasonable cause to believe there has been a violation of this chapter, and the information sought or document or object demanded is relevant to the violation, it shall order the person to comply with the demand, subject to modification the court may prescribe. Upon motion by the person and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

3. Any procedure, testimony taken, or material produced under this section must be kept confidential by the attorney general before bringing an action against a person under this chapter for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court.

~~4. The investigatory authority provided by this section may be invoked by the attorney general only after a district court has reviewed the information gathered by the attorney general and has determined that there is reasonable cause to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to a possible violation of this chapter. The~~

- 1 ~~submission of the information by the attorney general to the district court must be~~
- 2 ~~made ex parte and must be kept confidential until such time as the matter may be~~
- 3 ~~the subject of an action filed pursuant to section 51-08.1-08.~~