

Introduced by

Representative Brusegaard

1 A BILL for an Act to amend and reenact subsection 1 of section 10-06.1-09 and sections
2 10-06.1-12 and 10-06.1-19 of the North Dakota Century Code, relating to corporations in
3 farming and ranching.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 10-06.1-09 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. A nonprofit organization or a trust for the benefit of an individual or a class of
8 individuals ~~related within the degrees of kinship specified in subsection 2 of section~~
9 ~~10-06.1-12~~ may own or lease farmland or ranchland if that land is leased to a
10 person who farms or ranches the land as a sole proprietorship or partnership, or a
11 corporation or limited liability company allowed to engage in farming or ranching
12 under section 10-06.1-12.

13 **SECTION 2. AMENDMENT.** Section 10-06.1-12 of the 1999 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **10-06.1-12. Corporation or limited liability company allowed to engage in the**
16 **business of farming or ranching - Requirements.** This chapter does not prohibit a domestic
17 corporation or a domestic limited liability company from owning real estate and engaging in the
18 business of farming or ranching, if the corporation meets all the requirements of chapter
19 10-19.1 or the limited liability company meets all the requirements of chapter 10-32 which are
20 not inconsistent with this chapter. The following requirements also apply:

21 1. If a corporation, the corporation must not have more than fifteen shareholders. If a
22 limited liability company, the limited liability company must not have more than
23 fifteen members.

2. ~~Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great grandparent, great grandchild, first cousin, or the spouse of a person so related.~~

3. ~~Each shareholder or member must be an individual or one of the following:~~

a. ~~A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.~~

b. ~~An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.~~

4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.

5. 3. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. 4. If a corporation, ~~the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch and at least one of the corporation's shareholders~~ principal shareholder must be an individual ~~residing on~~ or actively engaged in operating the farm or ranch. If a limited liability company, ~~the governors and managers of the limited liability company must be members who are actively engaged in operating the farm or ranch and~~ at least one of its members must be an individual ~~residing on or~~ actively engaged in operating the farm or ranch.

7. 5. An annual average of at least sixty-five percent of the gross income of the corporation or limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from farming or ranching operations.

1 8- 6. The income of the corporation or limited liability company from nonfarm rent,
2 nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent
3 of the gross income of the corporation or limited liability company.

4 **SECTION 3. AMENDMENT.** Section 10-06.1-19 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **10-06.1-19. Exemption from certain disclosure and other requirements for certain**
7 **organizations.** Sections 10-06.1-12, 10-06.1-15, 10-06.1-17, and 10-06.1-18 do not apply to
8 nonprofit organizations or to corporations or limited liability companies such as banks, trust
9 companies, or foundations serving in a fiduciary capacity as the personal representative or
10 trustee of an estate or trust for an individual ~~described in subsection 2 of section 10-06.1-12.~~