

February 26, 2007

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2081

Page 1, line 1, remove "subsection 3 of section 57-38.6-01 and" and after "sections" insert "57-38.6-01,"

Page 1, line 2, after "57-38.6-02" insert a comma and replace "the definition and" with "definitions and to the"

Page 1, replace lines 6 through 19 with:

"SECTION 1. AMENDMENT. Section 57-38.6-01 of the North Dakota Century Code is amended and reenacted as follows:

57-38.6-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Agricultural commodity processing facility" means a facility that through processing involving the employment of knowledge and labor adds value to an agricultural commodity capable of being raised in this state.
2. "Director" means the director of the department of commerce division of economic development and finance.
3. "Qualified business" means a cooperative, corporation, partnership, or limited liability company that:
 - a. Is incorporated or organized in this state after December 31, 2000, for the primary purpose of processing and marketing agricultural commodities capable of being raised in this state;
 - b. Has been certified by the securities commissioner to be in compliance under the securities laws of this state; and
 - c. Has an agricultural commodity processing facility, or intends to locate one, in this state; and
 - d. ~~Is among the first ten businesses that meets the requirements of this subsection, but not a business that was previously certified as a qualified business under chapter 57-38.5.~~
4. "Qualified investment" means an investment in cash or an investment of a fee simple interest in real property located in this state. For purposes of this chapter, the definition of real property does not include any personal property that may become a fixture to the real property, as defined by chapter 41-09, which is added to the real property following investment of the real property in the qualified business.
5. "Taxpayer" means an individual, estate, trust, corporation, partnership, or limited liability company."

Page 4, line 10, after the period insert "Real property that qualifies as an investment must be used in, and be an integral part of, the qualified business's North Dakota business operations."

8. If the investment is a contribution of real property:
 - a. The value of the contribution may not exceed the appraised value as established by a licensed or certified appraiser licensed or certified under the requirements of sections 43-23.3-04, 43-23.3-04.1, 43-23.3-05, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-10, 43-23.3-11, and 43-23.3-12.
 - b. The value of the contribution must be approved by the governing body of the qualified business applying the valuation standards set forth in subsection 3 of section 10-19.1-63.
 - c. The qualified business receiving the contribution of real property shall provide to the tax commissioner a copy of the appraised valuation, a copy of the governing body's resolution approving the value of the contribution, and a copy of the statement of full consideration within thirty days after the instrument transferring title to the real property is recorded with the register of deeds as provided in chapter 47-19.
 - d. A taxpayer making a contribution of real property is entitled to the tax credit in the taxable year in which the instrument transferring title to the real property is recorded with the register of deeds as provided in chapter 47-19."

Page 4, line 11, replace "8." with "9."

Renumber accordingly