

HOUSE BILL NO. 1388

Introduced by

Representatives McWilliams, Howe, Jones, Pyle, D. Ruby, Simons, Skroch

Senators O. Larsen, Osland

1 A BILL for an Act to amend and reenact section 10-06.1-12 of the North Dakota Century Code,
2 relating to persons eligible for corporate farm ownership.

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

4 **SECTION 1. AMENDMENT.** Section 10-06.1-12 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **10-06.1-12. Corporation or limited liability company allowed to engage in the**
7 **business of farming or ranching - Requirements.**

8 This chapter does not prohibit a domestic corporation or a domestic limited liability company
9 from owning real estate and engaging in the business of farming or ranching, if the corporation
10 meets all the requirements of chapter 10-19.1 or the limited liability company meets all the
11 requirements of chapter 10-32.1 which are not inconsistent with this chapter. The following
12 requirements also apply:

- 13 1. If a corporation, the corporation must not have more than fifteen shareholders. If a
14 limited liability company, the limited liability company must not have more than fifteen
15 members.
- 16 2. Each shareholder or member must be related to each of the other shareholders or
17 members within one of the following degrees of kinship or affinity: parent, son,
18 daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother,
19 sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin,
20 second cousin, or the spouse of a person so related.
- 21 3. Each shareholder or member must be an individual or one of the following:
 - 22 a. A trust for the benefit of an individual or a class of individuals who are related to
23 every shareholder of the corporation or member of the limited liability company
24 within the degrees of kinship or affinity specified in this section.

- 1 b. An estate of a decedent who was related to every shareholder of the corporation
2 or member of the limited liability company within the degrees of kinship or affinity
3 specified in this section.
- 4 4. A trust or an estate may not be a shareholder or member if the beneficiaries of the
5 trust or the estate together with the other shareholders or members are more than
6 fifteen in number.
- 7 5. Each individual who is a shareholder or member must be a citizen of the United States
8 or a permanent resident alien of the United States.
- 9 6. If a corporation, the officers and directors of the corporation must be shareholders who
10 are actively engaged in operating the farm or ranch and at least one of the
11 corporation's shareholders must be an individual residing on or operating the farm or
12 ranch. If a limited liability company, the governors and managers of the limited liability
13 company must be members who are actively engaged in operating the farm or ranch
14 and at least one of its members must be an individual residing on or operating the
15 farm or ranch.
- 16 7. An annual average of at least sixty-five percent of the gross income of the corporation
17 or limited liability company over the previous five years, or for each year of its
18 existence, if less than five years, must have been derived from farming or ranching
19 operations.
- 20 8. The income of the corporation or limited liability company from nonfarm rent, nonfarm
21 royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross
22 income of the corporation or limited liability company.