

HOUSE BILL NO. 1135

Introduced by

Representatives Klemin, Beltz, Motschenbacher, Thomas

Senators Dwyer, Luick, Myrdal

1 A BILL for an Act to amend and reenact sections 47-10.1-01 and 47-10.1-02 of the North
2 Dakota Century Code, relating to exceptions to the acquisition of agricultural land by foreign
3 governments.

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

5 **SECTION 1. AMENDMENT.** Section 47-10.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **47-10.1-01. Definitions.**

8 In this chapter, unless the context or subject matter otherwise requires:

- 9 1. "Agricultural land" means land capable of use in the production of agricultural crops,
10 livestock or livestock products, poultry or poultry products, milk or dairy products, or
11 fruit and other horticultural products but does not include any land zoned by a local
12 governmental unit for a use other than, and nonconforming with, agricultural use, but
13 does not include any oil, gas, coal, or other minerals underlying the land, any interest
14 in minerals, separate from the surface, whether acquired by lease or otherwise, or any
15 easements or tracts of land acquired in connection with the extraction, refining,
16 processing, or transportation of minerals.
- 17 2. "Controlling interest" means:
- 18 a. Possession of fifty one percent or more of the ownership interests in an entity; or
19 b. A percentage ownership interest in an entity of less than fifty-one percent, if the
20 foreign government actually directs the business and affairs of the entity without
21 the requirement or consent of any other party.
- 22 3. "Foreign government" means a government or the state-controlled enterprise of a
23 foreign government. The term does not include the government of the United States or
24 its states, territories, or possessions.

1 4. "Interest in agricultural land" includes any leasehold interest.

2 5. "State-controlled enterprise" means a business enterprise, however denominated, in
3 which a foreign government has a controlling interest.

4 **SECTION 2. AMENDMENT.** Section 47-10.1-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-10.1-02. Restriction on acquisition - Exceptions.**

7 1. An individual who is not a citizen of the United States, a citizen of Canada, or a
8 permanent resident alien of the United States may not acquire directly or indirectly any
9 interest in agricultural land unless:

10 a. The individual is an alien entitled to enter the United States under the provisions
11 of a treaty of commerce and navigation between the United States and the
12 foreign state of which the individual is a national, solely to develop and direct the
13 operations of an enterprise in which the individual has invested or to direct the
14 operations of an enterprise in which the individual is actively in the process of
15 investing a substantial amount of capital;

16 b. The individual resides in this state for at least ten months out of every year;

17 c. The individual actively participates in the operation of the agricultural land;

18 d. The agricultural landholding does not exceed six hundred forty acres [258.99
19 hectares]; and

20 e. The agricultural landholding includes a dairy operation.

21 2. An individual who is permitted to acquire an interest in agricultural land under
22 subsection 1 shall:

23 a. Notify the agriculture commissioner of any land acquisition within thirty days of
24 the acquisition; and

25 b. Annually provide the agriculture commissioner with a list of all addresses at
26 which the individual resided during the previous year and the dates during which
27 the individual resided at each address.

28 3. If an individual ceases to meet the exceptions provided for in subsection 1, the
29 individual shall dispose of the agricultural land within twenty-four months.

30 4. A partnership, limited partnership, limited liability company, trustee, or other business
31 entity may not, directly or indirectly, acquire or otherwise obtain any interest, whether

1 legal, beneficial, or otherwise, in any title to agricultural land unless the ultimate
2 beneficial interest of the entity is held directly or indirectly by citizens of the United
3 States or permanent resident aliens of the United States.

4 5. This section does not apply to agricultural land that may be acquired by devise,
5 inheritance, as security for indebtedness, by process of law in the collection of debts,
6 or by any procedure for the enforcement of a lien or claim thereon, whether created by
7 mortgage or otherwise; provided, that all agricultural land acquired in the collection of
8 debts or by the enforcement of a lien or claim must be disposed of within three years
9 after acquiring ownership if the acquisition would otherwise violate this section.

10 6. This section does not apply to a foreign corporation or a foreign limited liability
11 company which acquires agricultural land for use as an industrial site when
12 construction contracts are entered into by the corporation or limited liability company
13 within one hundred fifty days after acquisition of the land; provided, that this exception
14 applies only to so much agricultural land as is reasonably necessary for industrial
15 purposes. A foreign corporation or a foreign limited liability company which owns
16 agricultural land for industrial purposes but which discontinues using the land for
17 industrial purposes shall dispose of the land as provided by chapter 10-06.1. A foreign
18 corporation or foreign limited liability company shall dispose of agricultural land
19 acquired for industrial purposes within one year after acquisition if construction
20 contracts are not entered into within one hundred fifty days after acquisition of the
21 land.

22 7. This section does not apply to citizens or subjects of a foreign country whose rights to
23 hold land are secured by treaty or to common carriers by railroad subject to the
24 jurisdiction of the interstate commerce commission.

25 8. Notwithstanding subsection 4 and subsection 6, after June 30, 2023, a foreign
26 government may not purchase, acquire, lease, or hold any interest in agricultural land
27 in the state. This section does not apply to any interest in agricultural land held by a
28 foreign government before July 1, 2023.