

PROPERTY

CHAPTER 386

SENATE BILL NO. 2239

(Senators Erbele, Klein, Seymour)
(Representatives Brandenburg, S. Kelsh, Kretschmar)

WIND OPTION AGREEMENTS, EASEMENTS, AND LEASES

AN ACT to create and enact a new section to chapter 9-01, three new sections to chapter 47-05, and a new section to chapter 47-16 of the North Dakota Century Code, relating to wind option agreements, easements, and leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 9-01 of the North Dakota Century Code is created and enacted as follows:

Wind option agreement - Definition - Termination. A wind option agreement is a contract in which the owner of property gives another the right to produce energy from wind power on that property at a fixed price within a time period not to exceed five years on agreed terms. A wind option agreement is void and terminates if development to produce energy from wind power has not occurred on the property that is the subject of the agreement within five years after the wind option agreement commences.

SECTION 2. A new section to chapter 47-05 of the North Dakota Century Code is created and enacted as follows:

Wind easement - Definition. For purposes of sections 3 and 4 of this Act, the term wind easement means a right, whether stated in the form of a restriction, easement, covenant, or condition, in a deed, will, or other instrument executed by or on behalf of an owner of land or airspace for the purpose of ensuring adequate exposure of a wind power system to the winds.

SECTION 3. A new section to chapter 47-05 of the North Dakota Century Code is created and enacted as follows:

Wind easements - Creation - Term - Development required. A property owner may grant a wind easement in the same manner and with the same effect as the conveyance of an interest in real property. The easement runs with the land benefited and burdened and terminates upon the conditions stated in the easement. However, the easement is void if no development to produce energy from wind power associated with the easement has occurred within five years after the easement is created.

SECTION 4. A new section to chapter 47-05 of the North Dakota Century Code is created and enacted as follows:

Severance of wind energy rights limited. Except for a wind easement created under section 3 of this Act, an interest in a resource located on a tract of land and associated with the production of energy for wind power on the tract of land may not be severed from the surface estate.

SECTION 5. A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

Wind energy leases - Termination. A lease for wind energy purposes is void and terminates if development to produce energy from wind power has not occurred on the leasehold within five years after the lease commences.

Approved March 30, 2005

Filed March 31, 2005

CHAPTER 387

SENATE BILL NO. 2322

(Senator Wardner)
(Representatives Kreidt, Onstad)

AGRICULTURAL PROPERTY ACQUISITION LIMITATIONS

AN ACT to amend and reenact section 47-10.1-02 of the North Dakota Century Code, relating to restrictions on the acquisition of agricultural land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

47-10.1-02. Restriction on acquisition - Exceptions. ~~A person~~

1. An individual who is not a citizen of the United States or, a citizen of Canada, except or a permanent resident alien of the United States; may not acquire directly or indirectly any interest in agricultural land unless:
 - a. The individual is an alien entitled to enter the United States under the provisions of a treaty of commerce and navigation between the United States and the foreign state of which the individual is a national, solely to develop and direct the operations of an enterprise in which the individual has invested or to direct the operations of an enterprise in which the individual is actively in the process of investing a substantial amount of capital;
 - b. The individual resides in this state for at least ten months out of every year;
 - c. The individual actively participates in the operation of the agricultural land;
 - d. The agricultural landholding does not exceed six hundred forty acres [258.99 hectares]; and
 - e. The agricultural landholding includes a dairy operation.
2. An individual who is permitted to acquire an interest in agricultural land under subsection 1 shall:
 - a. Notify the agriculture commissioner of any land acquisition within thirty days of the acquisition; and
 - b. Annually provide the agriculture commissioner with a list of all addresses at which the individual resided during the previous year and the dates during which the individual resided at each address.

3. If an individual ceases to meet the exceptions provided for in subsection 1, the individual shall dispose of the agricultural land within twenty-four months.
4. A partnership, limited partnership, limited liability company, trustee, or other business entity may not, directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial, or otherwise, in any title to agricultural land unless the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens of the United States.
5. This section does not apply to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, that all agricultural land acquired in the collection of debts or by the enforcement of a lien or claim ~~shall~~ must be disposed of within three years after acquiring ownership; if the acquisition would otherwise violate this section.
6. This section does not apply to a foreign corporation or a foreign limited liability company which acquires agricultural land for use as an industrial site when construction contracts are entered into by the corporation or limited liability company within one hundred fifty days after acquisition of the land; provided, that this exception ~~shall~~ applies only ~~apply~~ to so much agricultural land as is reasonably necessary for industrial purposes. A foreign corporation or a foreign limited liability company which owns agricultural land for industrial purposes but which discontinues using the land for industrial purposes shall dispose of the land as provided by chapter 10-06.1. A foreign corporation or foreign limited liability company shall dispose of agricultural land acquired for industrial purposes within one year after acquisition if construction contracts are not entered into within one hundred fifty days after acquisition of the land.
7. This section does not apply to citizens or subjects of a foreign country whose rights to hold land are secured by treaty or to common carriers by railroad subject to the jurisdiction of the interstate commerce commission.

Approved March 16, 2005

Filed March 17, 2005

CHAPTER 388**SENATE BILL NO. 2161**

(Senators Krebsbach, Wardner)
(Representatives Froseth, Mueller)

AGRICULTURAL LAND TRANSFERS

AN ACT to repeal section 47-10.1-03 of the North Dakota Century Code, relating to the prohibition of recording instruments transferring title to agricultural land to an alien or certain business entities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 47-10.1-03 of the North Dakota Century Code is repealed.

Approved March 9, 2005
Filed March 9, 2005

CHAPTER 389**SENATE BILL NO. 2182**

(Senators Holmberg, Trenbeath)

ESTATE OR TRUST CONVEYANCE VALIDITY

AN ACT to provide for the validity of certain conveyances by an estate or trust; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Validity of conveyance by trust or estate. A conveyance is not void or voidable solely because the grantee in the conveyance is a trust, rather than the trustee of the trust, or is an estate, rather than the personal representative of the estate, if the identity of the grantee is reasonably ascertainable from the conveyance or from other information of public record, or from both.

SECTION 2. APPLICATION. This Act applies to any conveyance regardless of when executed.

Approved March 16, 2005

Filed March 17, 2005

CHAPTER 390

HOUSE BILL NO. 1149

(Industry, Business and Labor Committee)

(At the request of the Board of University and School Lands)

UNCLAIMED PROPERTY LIST PREPARATION

AN ACT to amend and reenact section 47-30.1-19.1 of the North Dakota Century Code, relating to preparation of property lists by the unclaimed property administrator.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-30.1-19.1 of the North Dakota Century Code is amended and reenacted as follows:

47-30.1-19.1. Abandoned property lists list - Preparation - Contents - Confidentiality Exempt from open records. The administrator shall annually prepare ~~two lists~~ a list with information about property paid or delivered to the administrator under section 47-30.1-17.

1. ~~One~~ The list must refer to all securities and unclaimed funds ~~of~~ valued at fifty dollars or more in the administrator's custody and must contain the name and last known address of each person appearing from the holders' report to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary from the report of an insurance company.
2. ~~The second list must refer to property that has been in the administrator's custody for more than twenty-four months and must contain the following information:~~
 - a. The name and last known address of each person appearing from the holders' report to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary from the report of an insurance company.
 - b. ~~The amount paid or delivered to the administrator.~~
 - c. The name of the person who paid or delivered the property to the administrator.
 - d. c. A general description of the property.
 - e. d. The date on which the administrator received the property.
 - f. Other information the administrator deems appropriate for inclusion in the list.
3. ~~The lists described in this section must be updated annually.~~

4. 2. The ~~lists~~ list described in this section must be available for public inspection at all reasonable business hours and copies of ~~each~~ the list must be available to the public for a fee to be set by the administrator.
5. 3. Reports filed with the administrator under section 47-30.1-17 are not public records and are not open to public inspection until twenty-four months after the date payment or delivery is made.

Approved March 21, 2005

Filed March 22, 2005

CHAPTER 391

SENATE BILL NO. 2111

(Industry, Business and Labor Committee)

(At the request of the Board of University and School Lands)

ABANDONED PROPERTY SALE NOTICE

AN ACT to amend and reenact subsection 1 of section 47-30.1-22 of the North Dakota Century Code, relating to notice of sale of abandoned property by the unclaimed property administrator.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 47-30.1-22 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsection 2, the administrator, ~~within not less than~~ three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever manner affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property at a public sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, it need not be offered for sale. ~~Any~~ If any public sale held under this section is held in a physical location, the sale must be preceded by a single publication of notice, at least two weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

Approved April 22, 2005

Filed April 25, 2005