

N.D.A.G. Letter to Meyer (Feb. 6, 1987)

February 6, 1987

Honorable Dean Meyer
State Senator
Senate Chambers
Bismarck, ND 58505

Dear Senator Meyer:

Thank you for your letter of January 27, 1987, concerning North Dakota's corporate farming laws.

N.D.C.C. § 10-06-01 states, in part, as follows:

10-06-01. FARMING OR RANCHING BY CORPORATIONS
PROHIBITED -- RETENTION OF MINERAL INTEREST PROHIBITED. All corporations, except as otherwise provided in this chapter, are prohibited from owning or leasing land used for farming or ranching and from engaging in the business of farming or ranching. . . . (Emphasis supplied.)

All companies, including insurance companies, are prohibited from owning or leasing farmland or ranch land in North Dakota or from engaging in the business of farming unless they comply with one of the exceptions to N.D.C.C. Ch. 10-06. The exceptions include surface coal mining (N.D.C.C. § 10-06-01.2), industrial and business purposes (N.D.C.C. § 10-06-01.3), cooperative corporations (N.D.C.C. § 10-06-04), nonprofit organizations (N.D.C.C. §§ 10-06-04.1 - 10-06-04.4), farm corporations (N.D.C.C. § 10-06-07), and the exception for holding farmland or ranch land as security for indebtedness, by process of law in the collection of debts, or by any other procedure for the enforcement of a lien or a claim (N.D.C.C. § 10-06-13), allows a three-year holding period only.

Unless an insurance company qualifies as a nonprofit corporation, it would not be subject to the divestiture requirements of N.D.C.C. §§ 10-06-04.3 or 10-06-04.4. However, insurance companies would be subject to the divestiture requirements of N.D.C.C. § 10-06-13 when they acquire farmland or ranch land as security for indebtedness, by process of law in the collection of debts, or by the procedure for the enforcement of a lien or claim thereon, whether created by a mortgage or otherwise.

In conclusion, generally, unless an insurance company meets the requirements of the exceptions noted above, or is allowed to hold farmland or ranch land for the three-year period pursuant to N.D.C.C. § 10-06-13 it is forbidden to hold any farmland or ranch land whether by ownership or leasing.

Sincerely,

Nicholas J. Spaeth

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