

**Sixty-fourth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2015**

HOUSE BILL NO. 1335  
(Representative Keiser)  
(Senator Armstrong)

AN ACT to create and enact sections 10-15-53.1, 10-15-53.2, 10-15-53.3, 10-19.1-146.1, 10-33-141.3, and 45-10.2-108.1 of the North Dakota Century Code, relating to the annual report of a cooperative, involuntary dissolution of a cooperative or revocation of certificate of authority of a foreign cooperative, the reinstatement of a cooperative or foreign cooperative following involuntary dissolution or revocation of certificate of authority, amendment of articles by a nonprofit corporation, involuntary dissolution of a nonprofit corporation or revocation of certificate of authority of a foreign nonprofit corporation, and involuntary dissolution of a limited partnership or revocation of certificate of authority for a foreign limited partnership; to amend and reenact section 10-01.1-11, subsections 9 and 10 of section 10-06.1-17, subsection 5 of section 10-15-08.1, subsection 2 of section 10-15-52.7, sections 10-15-53, 10-15-54, and 10-19.1-17, subsection 4 of section 10-19.1-148, section 10-33-14, subsection 4 of section 10-33-141, subsection 7 of section 10-34-04, subsection 7 of section 45-10.2-24, subsection 1 of section 45-10.2-25, section 45-11-05.1, subsection 4 of section 45-22-03, section 45-22-16, subsection 15 of section 45-23-08 of the North Dakota Century Code, relating to the resignation of registered agent, contents of an annual report of a farm corporation or limited liability company, a cooperative filing documents with the secretary of state, fees paid by cooperatives, amendment of articles by a business corporation, amendment of articles by a nonprofit corporation, real estate investment trusts, an address change of a limited partnership, the signature requirements on documents filed with the secretary of state by a limited partnership, the fictitious name certificate, an address change of a limited liability partnership, revocation of the registration of a limited liability partnership or foreign limited liability partnership, and the fee to file the registration of a foreign limited liability limited partnership; and to repeal sections 10-15-36, 10-19.1-141, 10-33-134, and 45-10.2-87 of the North Dakota Century Code, relating to the annual report of a cooperative, revocation of the certificate of authority of a foreign corporation, revocation of the certificate of authority of a foreign nonprofit corporation, and revocation of the certificate of authority of a foreign limited partnership.

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

**SECTION 1. AMENDMENT.** Section 10-01.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**10-01.1-11. Resignation of registered agent - Removal of agent appointed without consent.**

1. Until the legal existence of a represented entity ceases, or until the authority of a foreign entity is withdrawn or revoked, a registered agent may resign at any time with respect to a represented entity by filing with the secretary of state a statement of resignation signed by or on behalf of the registered agent which states:
  - a. The name of the entity;
  - b. The name of the registered agent;
  - c. That the registered agent resigns from serving as agent for service of process for the entity; and
  - d. The name and address of the person to which the registered agent will send the notice required by subsection 3.

2. A statement of resignation takes effect on the earlier of the thirty-first day after the day on which it is filed or the appointment of a new registered agent for the represented entity.
3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed.
4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the registered agent or that the registered agent may have against the entity.
5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing but not after the legal existence of the represented entity has ceased or, in the case of a foreign entity, after its authority has been withdrawn or revoked.
6. If a person becomes aware of having been named as a registered agent without the person's prior consent, the appointed person shall notify the secretary of state in writing of the nonconsensual appointment. Upon notification, the secretary of state shall remove the appointed person as registered agent in the published record and notify the entity that it fails to maintain a registered agent. The entity that filed a document with the secretary of state evidencing a nonconsensual appointment of registered agent is subject to the provisions related to failure to maintain a registered agent as provided in the laws of this state which govern the entity and the documents filed.

**SECTION 2. AMENDMENT.** Subsections 9 and 10 of section 10-06.1-17 of the North Dakota Century Code are amended and reenacted as follows:

9. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in section 10-19.1-147chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.
10. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in subsections 5 and 6 of section 10-32-149chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

**SECTION 3. AMENDMENT.** Subsection 5 of section 10-15-08.1 of the North Dakota Century Code is amended and reenacted as follows:

5. A cooperative that is involuntarily dissolved by the secretary of state under section ~~10-15-36~~10-15-53.2 may reacquire the right to use that name by reinstating the cooperative within the time provided in section ~~10-15-36~~10-15-53.3 or by refiling articles of association, unless the name has been adopted for use or reserved by another person, in which case the filing must be rejected unless the filing is accompanied by a written consent or judgment as provided in subdivision d of subsection 1. A cooperative that is unable to reacquire the use of its name shall adopt a new name that complies with this section.

**SECTION 4. AMENDMENT.** Subsection 2 of section 10-15-52.7 of the North Dakota Century Code is amended and reenacted as follows:

2. Except for revocation of the certificate of authority for failure to file the annual report as provided in section ~~10-15-36~~10-15-53.2, no certificate of authority of a foreign cooperative may be revoked by the secretary of state unless:
  - a. The secretary of state has given the foreign cooperative at least sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the foreign cooperative fails to appoint and maintain a registered agent in this state, then addressed to its principal executive office; and

- b. During the sixty-day period, the foreign cooperative has failed to:
- (1) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
  - (2) File any amendment;
  - (3) File any merger;
  - (4) File an application for certificate of withdrawal; or
  - (5) Correct the misrepresentation.

**SECTION 5. AMENDMENT.** Section 10-15-53 of the North Dakota Century Code is amended and reenacted as follows:

**10-15-53. Secretary of state - Filing documents - Effective date.**

1. Except as otherwise required by law, if any document is to be filed, an original must be delivered to a record authorized or required to be filed with the secretary of state under this chapter must be captioned to describe the purpose of the record, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees required by section 10-15-54 have been paid, then, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, the secretary of state, who shall stamp the date of filing on the document and provide to the cooperative a certificate of filing file the record, and for all records, except annual reports, send an image of the filed record to the person who filed the record.
2. Upon request and payment of the fee provided in section 10-15-54, the secretary of state shall send to the requester a certified copy of a requested record.
3. Except as otherwise provided in this chapter, a record filed with the secretary of state under this chapter may specify a delayed effective date that is no later than ninety days from the date of filing. If the record does not specify a delayed effective date, a record filed with the secretary of state is effective on the date the record is filed as evidenced by the endorsement of the secretary of state of the date on the record.

**SECTION 6.** Section 10-15-53.1 of the North Dakota Century Code is created and enacted as follows:

**10-15-53.1. Secretary of state - Annual report to the secretary of state.**

1. A cooperative and a foreign cooperative shall file an annual report signed by a principal officer or the general manager setting forth:
  - a. Its name and complete address of its principal place of business.
  - b. The names and addresses of its directors and principal officers.
  - c. In the case of a domestic cooperative, a statement, by class and par value, of the amount of stock it has authority to issue and the amount issued.
  - d. A statement as to the general type of business in which engaged during the prior year.
2. The annual report must be made on forms prescribed by the secretary of state and the information contained in the report must be given as of the date of the execution of the report. If the cooperative or foreign cooperative is in the hands of a receiver or trustee, the annual report must be signed on behalf of the cooperative or foreign cooperative by the receiver or trustee.

3. The secretary of state may destroy any annual report provided for in this section after the annual report is on file for six years.
4. The annual report must be delivered to the secretary of state with the fees provided in section 10-15-54 before April first of each year, except the first annual report of a cooperative or foreign cooperative must be delivered before April first of the year following the calendar year in which the certificate of incorporation or certificate of authority was issued by the secretary of state.
  - a. An annual report in a sealed envelope postmarked by the United States postal service before April first, an annual report in a sealed packet with a verified shipment date by any other carrier service before April first, or an annual report electronically transmitted to the secretary of state with a transmission time before April first is in compliance with this requirement. When a filing date falls on a Saturday, Sunday, or other holiday as defined in section 1-03-01, a postmark or verified shipment or transmission date on the next business day complies with this requirement.
  - b. The secretary of state shall file the report if the report conforms to the requirements of subsections 1 and 2.
    - (1) If the report does not conform to those requirements, the report must be returned to the cooperative or foreign cooperative for any necessary corrections.
    - (2) If the report is filed before the deadlines provided in this section, any penalty for the failure to file a report within the time provided does not apply if the report is corrected to conform to the requirements of subsections 1 and 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for corrections.
5. After May first, the secretary of state shall notify any cooperative or foreign cooperative failing to file its annual report that its certificate of incorporation or certificate of authority is not in good standing and may be dissolved or revoked as provided in section 10-15-53.2.

**SECTION 7.** Section 10-15-53.2 of the North Dakota Century Code is created and enacted as follows:

**10-15-53.2. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.**

1. With respect to involuntary dissolution of a cooperative by the secretary of state:
  - a. A cooperative may be involuntarily dissolved by the secretary of state if:
    - (1) The cooperative has failed to:
      - (a) File with the secretary of state its annual report or any other record required to be filed with the secretary of state under this chapter together with the fees provided in section 10-15-54; or
      - (b) Appoint and maintain a registered agent and registered office as provided in section 10-15-12; or
    - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the cooperative pursuant to this chapter.
  - b. A cooperative that fails to file its annual report, together with the fees provided in section 10-15-54, before April first of the year following the year it is found to be not in good standing ceases to exist and is considered involuntarily dissolved by operation of law.



- (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign cooperative pursuant to this chapter.
  - b. A foreign cooperative that fails to file its annual report, together with the fees provided in section 10-15-54, before April first of the year following the year it is found not to be in good standing forfeits its authority to transact business in this state and its certificate of authority is considered revoked by operation of law.

    - (1) The secretary of state shall note the revocation of the certificate of authority of the foreign cooperative on the records of the secretary of state and shall give notice of the action to the foreign cooperative.
    - (2) Notice by the secretary of state must be mailed to the last registered agent of the cooperative at its last registered office in this state or, if the cooperative failed to maintain a registered agent in this state, mailed to its principal office.
    - (3) The decision of the secretary of state that a certificate of authority must be revoked under this subsection is final.
    - (4) A foreign cooperative for which authority was forfeited by, and certificate of authority was revoked by the secretary of state for failure to file an annual report may be reinstated as provided in subsection 1 of section 10-15-53.3 and may appeal as provided in subsection 2 of section 10-15-53.3.
  - c. Except for revocation of the certificate of authority for failure to file the annual report as provided in 10-15-53.1, a certificate of authority of a foreign cooperative may not be revoked by the secretary of state unless:

    - (1) The secretary of state has given the foreign cooperative not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the cooperative failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
    - (2) During the sixty-day period, the foreign cooperative has failed to:

      - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
      - (b) File any amendment;
      - (c) File any merger;
      - (d) File an application for withdrawal;
      - (e) File any other required record; or
      - (f) Correct the misrepresentation.
  - d. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign cooperative to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign cooperative failed to maintain a registered agent in this state, the notice must be mailed to its principal office.
3. If the cooperative or foreign cooperative files its annual report after the notice with the fee provided for in section 10-15-54 for late filing, the secretary of state shall restore the certificate of incorporation or authority to good standing. Until restored to good standing, the secretary of

state may not accept for filing any document respecting the cooperative or foreign cooperative except those incident to its dissolution or withdrawal.

**SECTION 8.** Section 10-15-53.3 of the North Dakota Century Code is created and enacted as follows:

**10-15-53.3. Secretary of state - Reinstatement following an involuntary dissolution or revocation of authority - Appeals.**

1. With respect to reinstatement following involuntary dissolution or revocation of authority:

a. A cooperative dissolved for failure to file an annual report or a foreign cooperative for which authority was forfeited by failure to file an annual report may be reinstated by filing the most recent past-due report, together with the statutory filing and penalty fees for an annual report and a reinstatement fee. The fees must be paid and the report filed within one year following the date of the involuntary dissolution or revocation. Reinstatement under this section does not affect the rights or liability of any person for the time from the dissolution or revocation to the reinstatement.

b. With respect to a reinstatement that is more than one year after involuntary dissolution or revocation:

(1) If the secretary of state dissolves a cooperative or revokes the certificate of authority to transact business in this state of any foreign cooperative, under the provisions of section 10-15-53.2, the cooperative or foreign cooperative may appeal to district court in the judicial district serving Burleigh County for reinstatement by filing with the clerk of court a petition, including:

(a) A copy of the articles of incorporation of the cooperative and a copy of the notice of the involuntary dissolution given by the secretary of state; or

(b) A copy of the certificate of authority of the foreign cooperative to transact business in this state and a copy of the notice of revocation given by the secretary of state.

The matter must be tried de novo by the court. The court shall either sustain the action of the secretary of state or direct the secretary of state to take the action as the court may deem proper.

(2) If the court order sought is one for reinstatement of a cooperative that has been dissolved as provided in subsection 1 of section 10-15-53.2, or reinstatement of the certificate of authority of a foreign cooperative that has been revoked as provided in subsection 2 of section 10-15-53.2, together with any other actions the court deems proper, any order that reverses the decision of the secretary of state shall require the cooperative or foreign cooperative to:

(a) File the most recent past-due annual report;

(b) Pay the fees to the secretary of state for all past-due annual reports as provided in subsection 10 of section 10-15-54; and

(c) Pay the reinstatement fee to the secretary of state as provided in subsection 10 of section 10-15-54.

(3) Appeals from all final orders and judgments entered by the district court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions.

c. Reinstatement returns the cooperative to active status:

- (1) As of the date of the reinstatement:
    - (a) In the office of the secretary of state; and
    - (b) As to persons adversely affected by the reinstatement; and
  - (2) As of the date of the involuntary dissolution or revocation:
    - (a) Validates contracts or other acts within the authority of the articles, and the cooperative is liable for those contracts or acts; and
    - (b) Restores to the cooperative all assets and rights of the cooperative and its members to the extent they were held by the cooperative and its members before the involuntary dissolution or revocation occurred, except to the extent that assets or rights were affected by acts occurring after the involuntary dissolution or revocation, sold, or otherwise distributed after that time.
- d. Reapplication for any license or permit by a reinstated cooperative must be pursuant to the law governing the issuance of the license or permit.
  - e. Appeals from all final orders and judgments by the district court under this subsection may be taken as in other civil actions.
2. With respect to appeals of the rejection by the secretary of state of any record required to be approved by the secretary of state before the record may be filed:
- a. The secretary of state shall give written notice of the rejection to the person that delivered the record, specifying the reasons for rejection.
  - b. Within thirty days after the service of the notice of denial, the cooperative or foreign cooperative may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of court a petition setting forth a copy of the record sought to be filed and a copy of the written rejection of the record by the secretary of state.
  - c. The matter must be tried de novo by the court.
  - d. The court either shall sustain the action of the secretary of state or direct the secretary of state to take the action as the court may deem proper.
  - e. Appeals from all final orders and judgments by the district court under this subsection may be taken as in other civil actions.

**SECTION 9. AMENDMENT.** Section 10-15-54 of the North Dakota Century Code is amended and reenacted as follows:

**10-15-54. Fees.**

No document may be filed or recorded nor any certificate issued until all fees therefor have been paid. Any fee or penalty due under this chapter may be recovered in a suit brought by the attorney general in the name of the state. The secretary of state shall charge and collect from any association for:

1. Filing articles of association and issuing a certificate of association, thirty dollars.
2. Filing articles of amendment and issuing a certificate of amendment, twenty dollars.
3. Filing restated articles of association, thirty dollars.
4. Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifty dollars.

5. Filing articles or decree of dissolution, twenty dollars.
6. Receiving service of any process, notice, or demand, the fee provided in section 10-01.1-03.
7. Filing an application of a foreign cooperative for a certificate of authority to do business in this state and issuing a certificate therefor, forty dollars.
8. For filing a name reservation, a transfer of name reservation, a cancellation of name reservation, or a consent to use of name, ten dollars.
9. For filing a change of registered office or change of registered agent, or both, the fees provided in section 10-01.1-03.
10. Filing an annual report of a cooperative or foreign cooperative, twenty dollars.
  - a. The secretary of state shall charge and collect additional fees for late filing of the annual report as follows:
    - (1) After the date provided in subsection 4 of section 10-15-53.1, five dollars.
    - (2) After the notice provided in subsection 5 of section 10-15-53.1, ten dollars.
    - (3) After the dissolution of a cooperative or the revocation of the certificate of authority of a foreign cooperative, a reinstatement fee of thirty dollars.
  - b. Fees paid to the secretary of state under this subsection are not refundable if an annual report submitted to the secretary of state cannot be filed because the report lacks information required by section 10-15-53.1, or the annual report lacks sufficient payment as required by this subsection.
11. Filing any other document or statement, or issuing any other certificate, ~~twenty~~ten dollars.
12. Filing a statement of correction, twenty dollars.
- ~~11.~~13. Any document submitted for approval before the actual time of submission for filing, one-half of the fee provided in this section for filing the document.
12. ~~Filing a statement of correction, twenty dollars.~~
14. Furnishing a copy of any record, or paper relating to a cooperative or a foreign cooperative:
  - a. The fee provided in section 54-09-04 for copying a record; and
  - b. Five dollars for a search of records.
15. Furnishing a certificate of good standing, existence, authorization, or certifying any copy:
  - a. Fifteen dollars; and
  - b. Five dollars for a search of records.

**SECTION 10. AMENDMENT.** Section 10-19.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**10-19.1-17. Amendment of articles.**

The articles of a corporation may be amended at any time to include or modify any provision that is required or permitted to appear in the articles or to omit any provision not required to be included in the articles, except that when articles are amended to restate them, the name and address of each incorporator and each initial director may be omitted. If only a change of address of the principal

executive office is required, an amendment need not be filed; however, the change of address of the principal executive office must then be reported on the annual report filed after the change or be submitted in writing to the secretary of state without a filing fee. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with sections 10-19.1-18, 10-19.1-19, and 10-19.1-20.

**SECTION 11.** Section 10-19.1-146.1 of the North Dakota Century Code is created and enacted as follows:

**10-19.1-146.1. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.**

1. With respect to involuntary dissolution of a corporation by the secretary of state:
  - a. A corporation may be involuntarily dissolved by the secretary of state if:
    - (1) The corporation has failed to appoint and maintain a registered agent and registered office as provided in section 10-19.1-15; or
    - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the corporation pursuant to this chapter.
  - b. A corporation may not be dissolved by the secretary of state as provided for in this section unless:
    - (1) The secretary of state has given the corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office; and
    - (2) During the sixty-day period, the corporation has failed to:
      - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
      - (b) File any other required record; or
      - (c) Correct the misrepresentation.
  - c. Upon expiration of sixty days after the mailing of the notice, the existence of the corporation ceases. The secretary of state shall issue a notice of dissolution and shall mail the notice addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office.
2. With respect to the revocation of a certificate of authority of a foreign corporation by the secretary of state:
  - a. The certificate of a foreign corporation to transact business in this state may be revoked by the secretary of state if:
    - (1) The foreign corporation has failed to:
      - (a) Appoint and maintain a registered agent and registered office as provided in section 10-19.1-138;
      - (b) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 10-19.1-137;

- (c) File with the secretary of state any merger as provided in section 10-19.1-139; or
- (d) File with the secretary of state an application for certificate of withdrawal of its authority as provided in section 10-19.1-140 when the corporation's existence has expired or the foreign corporation has been dissolved in the jurisdiction of the foreign corporation; or
- (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign corporation under this chapter.
- b. A certificate of authority may not be revoked by the secretary of state as provided for in this section unless:
  - (1) The secretary of state has given the foreign corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
  - (2) During the sixty-day period, the foreign corporation has failed to:
    - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
    - (b) File any amendment;
    - (c) File any merger;
    - (d) File an application for withdrawal;
    - (e) File any other required record; or
    - (f) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign corporation to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office.
- 3. If the corporation or foreign corporation files a report of change relating to the registered agent or any other required record or correction of a misrepresentation after the notice with the fee provided for in section 10-19.1-147, the secretary of state shall restore the certificate of incorporation or authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the corporation or foreign corporation except those incident to its dissolution or withdrawal.

**SECTION 12. AMENDMENT.** Subsection 4 of section 10-19.1-148 of the North Dakota Century Code is amended and reenacted as follows:

- 4. If the secretary of state dissolves a corporation or revokes the certificate of authority to transact business in this state of any foreign corporation, pursuant to section ~~10-19.1-144~~10-19.1-146.1, then the corporation or foreign corporation may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of the court a petition, including:
  - a. A copy of the corporation's articles of incorporation and a copy of the notice of dissolution given by the secretary of state; or

- b. A copy of the certificate of authority of the foreign corporation to transact business in this state and a copy of the notice of revocation given by the secretary of state.

The court shall try the matter de novo. The court shall sustain the action of the secretary of state or direct the secretary of state to take the action the court determines proper.

**SECTION 13. AMENDMENT.** Section 10-33-14 of the North Dakota Century Code is amended and reenacted as follows:

**10-33-14. Amendment of articles.**

The articles of a corporation may be amended at any time to include or modify any provision that is required or permitted to appear in the articles or to omit any provision not required to be included in the articles, except that when articles are amended to restate them, the name and address of each incorporator and each initial director may be omitted. If only a change of address of the principal executive office is required, an amendment need not be filed; however, the change of address of the principal executive office must then be reported on the annual report filed after the change or be submitted in writing to the secretary of state without a filing fee. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with section 10-33-15.

**SECTION 14. AMENDMENT.** Subsection 4 of section 10-33-141 of the North Dakota Century Code is amended and reenacted as follows:

4. If the secretary of state dissolves a corporation or revokes the certificate of authority to conduct activities in this state of any foreign corporation, pursuant to section ~~10-33-134~~10-33-141.3, the corporation or foreign corporation may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of the court a petition including:
  - a. A copy of the corporation's articles of incorporation and a copy of the notice of dissolution given by the secretary of state; or
  - b. A copy of the foreign corporation's certificate of authority to conduct activities in this state and a copy of the notice of revocation given by the secretary of state. The matter must be tried de novo by the court. The court shall sustain the action of the secretary of state or shall direct the secretary of state to take the action the court determines proper.

**SECTION 15.** Section 10-33-141.3 of the North Dakota Century Code is created and enacted as follows:

**10-33-141.3. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.**

1. With respect to involuntary dissolution of a corporation by the secretary of state:
  - a. A corporation may be involuntarily dissolved by the secretary of state if:
    - (1) The corporation has failed to appoint and maintain a registered agent and registered office as provided in section 10-33-12; or
    - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the corporation pursuant to this chapter.
  - b. A corporation may not be dissolved by the secretary of state as provided for in this section unless:
    - (1) The secretary of state has given the corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the

corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office; and

- (2) During the sixty-day period, the corporation has failed to:
  - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
  - (b) File any other required record; or
  - (c) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the existence of the corporation ceases. The secretary of state shall issue a notice of dissolution and shall mail the notice addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office.

2. With respect to the revocation of a certificate of authority of a foreign corporation by the secretary of state:

- a. The certificate of a foreign corporation to transact business in this state may be revoked by the secretary of state if:
  - (1) The foreign corporation has failed to:
    - (a) Appoint and maintain a registered agent and registered office as provided in section 10-33-131;
    - (b) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 10-33-130;
    - (c) File with the secretary of state any merger as provided in section 10-33-132; or
    - (d) File with the secretary of state an application for certificate of withdrawal of its authority as provided in section 10-33-133 when the corporation's existence has expired or the foreign corporation has been dissolved in the jurisdiction of the foreign corporation; or
  - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign corporation under this chapter.
- b. A certificate of authority may not be revoked by the secretary of state as provided for in this section unless:
  - (1) The secretary of state has given the foreign corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
  - (2) During the sixty-day period, the foreign corporation has failed to:
    - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
    - (b) File any amendment;
    - (c) File any merger;

- (d) File an application for withdrawal;
  - (e) File any other required record; or
  - (f) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign corporation to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office.
3. If the corporation or foreign corporation files a report of change relating to the registered agent or any other required record or correction of a misrepresentation after the notice with the fee provided for in section 10-33-140, the secretary of state shall restore the certificate of incorporation or authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the corporation or foreign corporation except those incident to its dissolution or withdrawal.

**SECTION 16. AMENDMENT.** Subsection 7 of section 10-34-04 of the North Dakota Century Code is amended and reenacted as follows:

7. If any statement in the application was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the real estate investment trust shall file promptly with the secretary of state an application for an amended application executed by an authorized person correcting the statement. If only a change of address of the principal place of business is required, an amended application need not be filed; however, the change of address of the principal place of business must be submitted in writing to the secretary of state without a filing fee.

**SECTION 17. AMENDMENT.** Subsection 7 of section 45-10.2-24 of the North Dakota Century Code is amended and reenacted as follows:

7. A limited partnership shall submit a written report of any change of address of the principal executive office to the secretary of state without a filing fee or report the change of address on the annual report following the change and need not file an amendment to a certificate of limited partnership.

**SECTION 18. AMENDMENT.** Subsection 1 of section 45-10.2-25 of the North Dakota Century Code is amended and reenacted as follows:

1. Each record delivered to the secretary of state for filing pursuant to this chapter must be signed in the following manner:
- a. An initial certificate of limited partnership must be signed by all general partners listed in the certificate.
  - b. An amendment to the certificate of limited partnership converting the limited partnership to a limited liability limited partnership must be signed by all general partners listed in the certificate.
  - c. An amendment to the certificate of limited partnership designating as general partner a person admitted under subdivision b of subsection 3 of section 45-10.2-66 following the dissociation of a last general partner of a limited partnership must be signed by that person.
  - d. An amendment to the certificate of limited partnership required by subsection 3 of section 45-10.2-68 following the appointment of a person to wind up the activities of the dissolved limited partnership must be signed by that person.

- e. Any other amendment to the certificate of limited partnership must be signed by:
  - (1) At least one general partner listed in the certificate;
  - (2) Each other person designated in the amendment as a new general partner; and
  - (3) Each person that the amendment indicates has dissociated as a general partner, unless:
    - (a) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or
    - (b) The dissociated person has not been requested by the limited partnership to sign an amendment and the amendment so states; or
    - (c) The person has previously delivered to the secretary of state for filing a statement of dissociation.
- f. A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other subdivision of this subsection, the certificate must be signed in a manner that satisfies that subdivision.
- g. A statement of termination must be signed by a majority in interest of the general partners listed in the certificate of limited partnership or, if the certificate of a dissolved limited partnership lists no general partners, then by the person appointed pursuant to subsection 3 or 4 of section 45-10.2-68 to wind up the activities of the dissolved limited partnership.
- h. Articles of conversion must be signed by all of the general partners listed in the certificate of limited partnership.
- i. Articles of merger must be signed as provided in subsection 1 of section 45-10.2-102.
- j. Any other record delivered on behalf of a limited partnership to the secretary of state for filing must be signed by at least one general partner listed in the certificate of limited partnership.
- k. A statement by a person pursuant to subdivision d of subsection 1 of section 45-10.2-59 stating that the person has dissociated as a general partner must be signed by that person.
- l. A statement of withdrawal by a person pursuant to section 45-10.2-36 must be signed by that person.
- m. A record delivered on behalf of a foreign limited partnership to the secretary of state for filing must be signed by at least one general partner of the foreign limited partnership.
- n. Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

**SECTION 19.** Section 45-10.2-108.1 of the North Dakota Century Code is created and enacted as follows:

**45-10.2-108.1. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.**

- 1. With respect to involuntary dissolution of a limited partnership by the secretary of state:
  - a. A limited partnership may be involuntarily dissolved by the secretary of state if:



- (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign limited partnership under this chapter.
- b. A certificate of authority may not be revoked by the secretary of state as provided for in this section unless:
  - (1) The secretary of state has given the foreign limited partnership not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the limited partnership failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
  - (2) During the sixty-day period, the foreign limited partnership has failed to:
    - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
    - (b) Maintain the registration of a general partner as required in section 45-10.2-16;
    - (c) File a report upon any change in the address of its principal executive office;
    - (d) File any amendment;
    - (e) File any merger;
    - (f) File an application for cancellation;
    - (g) File any other required record; or
    - (h) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign limited partnership to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign limited partnership failed to maintain a registered agent in this state, the notice must be mailed to its principal office.
- 3. If the limited partnership or foreign limited partnership files a report of change relating to the registered agent or any other required record or correction of a misrepresentation after the notice with the fee provided for in section 45-10.2-109, the secretary of state shall restore the certificate of authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the limited partnership or foreign limited partnership except those incident to its dissolution or cancellation.

**SECTION 20. AMENDMENT.** Section 45-11-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**45-11-05.1. Change of name or address of member.**

- 1. Any member named on a fictitious name certificate that effects a name change must record that name change with the secretary of state. The secretary of state must record the name change upon the payment of twenty-five dollars and filing of the following:
  - 1- a. A notarized statement reciting the name change if the member is an individual.
  - 2- b. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the member is a corporation or limited partnership incorporated or

organized in another state or country which does not have a certificate of authority to transact business in North Dakota.

3. c. An amendment or application for amended certificate of authority for a member that is a corporation ~~or, a limited liability company, a limited partnership, a limited liability partnership, or a limited liability limited partnership~~ registered with the secretary of state.
2. A registrant ~~must~~ shall notify the secretary of state in writing without a filing fee when effecting a change of address. ~~A corporate~~ An annual report or from a corporation, a limited liability company, a limited partnership renewal, a limited liability partnership, or a limited liability limited partnership filed by the secretary of state which reflects a change of address of the principal place of business of the member may serve as such notice.

**SECTION 21. AMENDMENT.** Subsection 4 of section 45-22-03 of the North Dakota Century Code is amended and reenacted as follows:

4. An original of the registration must be filed with the secretary of state.
  - a. If the secretary of state finds the registration conforms to law and the fees provided in section 45-22-22 are paid, the secretary of state shall endorse on the original the word "filed" and the day, month, and year of the filing and shall file the original in the office of the secretary of state.
  - b. If any statement in the registration is false when made or becomes inaccurate after the registration is filed, making the registration false or inaccurate in any respect, the limited liability partnership shall file promptly with the secretary of state an amended or corrected registration or reflect the changes on the limited liability partnership's next annual report. If only a change of address of the principal executive office is required, an amended or corrected registration need not be filed. However, the change of address of the principal executive office must be reported in the next annual report filed after the change or be submitted in writing to the secretary of state without a filing fee.
  - c. In the case of a change in a foreign limited liability partnership's name, a foreign limited liability partnership shall file promptly with the secretary of state a certificate to that effect authenticated by the proper officer of the jurisdiction of origin.
  - d. In the case of a termination or merger:
    - (1) A foreign limited liability partnership that is not the surviving organization need not file an amended registration but, within thirty days after the merger or termination becomes effective, shall file with the secretary of state a certificate to that effect authenticated by the proper officer of the foreign limited liability partnership's jurisdiction of origin.
    - (2) It is not necessary for any foreign limited liability partnership, which is the surviving organization in a merger, to procure a new or amended registration unless the name of the foreign limited liability partnership is changed or unless the foreign limited liability partnership desires to pursue in this state purposes other than those which the foreign limited liability partnership is authorized to transact in this state.
  - e. ~~The secretary of state may destroy any registration that is on file for seven years.~~

**SECTION 22. AMENDMENT.** Section 45-22-16 of the North Dakota Century Code is amended and reenacted as follows:

**45-22-16. Secretary of state - Revocation of registration.**

1. The registration of a limited liability partnership or foreign limited liability partnership may be revoked by the secretary of state if:

- a. The limited liability partnership or foreign limited liability partnership fails:
    - (1) To appoint and maintain a registered agent and registered office as provided in chapter 10-01.1;
    - (2) To file any amendment to the ~~limited liability partnership's~~ registration of the limited liability partnership or foreign limited liability partnership as required to be filed pursuant to subdivision b or c of subsection 4 of section 45-22-03;
    - (3) Fails to file a merger as required to be filed pursuant to subdivision d of subsection 4 of section 45-22-03; or
    - (4) Fails to file a withdrawal statement or cancellation of its registration if the foreign limited liability partnership's existence expires, it is dissolved, or it ceases to exist in the jurisdiction of origin.
  - b. An intentional misrepresentation is made in any material matter in any registration, report, affidavit, or other document submitted by the limited liability partnership or foreign limited liability partnership pursuant to this chapter.
2. Except for revocation of the registration for failure to file the annual report as provided in section 45-22-21.1, the secretary of state may not revoke the registration of a limited liability partnership or foreign limited liability partnership unless:
    - a. The secretary of state gave the limited liability partnership or foreign limited liability partnership at least sixty days' notice of the reason for the pending revocation by mail addressed to the ~~limited liability partnership's~~ registered agent of the limited liability partnership or foreign limited liability partnership at the registered office or, if the limited liability partnership or foreign limited liability partnership fails to appoint and maintain a registered agent in this state, by mail addressed to the ~~limited liability partnership's~~ sits principal executive office; and
    - b. During the sixty-day period, the limited liability partnership or foreign limited liability partnership fails:
      - (1) To appoint and maintain a registered agent as provided in chapter 10-01.1;
      - (2) To file the report of change regarding the name or business address of the registered agent;
      - (3) To file any amendment to the ~~limited liability partnership's~~ registration of the limited liability partnership or foreign limited liability partnership required to be filed pursuant to subdivision b or c of subsection 4 of section 45-22-03; or
      - (4) To correct the misrepresentation.
  3. Upon the expiration of the sixty-day period without the limited liability partnership or foreign limited liability partnership curing the reason for the pending revocation set forth in the notice, the registration is revoked. The secretary of state shall note the revocation in the records of the secretary of state and shall give notice of the revocation to the limited liability partnership or foreign limited liability partnership. Notice by the secretary of state must be mailed to the last registered agent at the last registered office. If the limited liability partnership or foreign limited liability partnership failed to appoint and maintain a registered office in this state, the notice must be mailed to the ~~limited liability partnership's~~ sits principal executive office.

**SECTION 23. AMENDMENT.** Subsection 15 of section 45-23-08 of the North Dakota Century Code is amended and reenacted as follows:

15. Filing a registration of foreign limited liability limited partnership, one hundred ten dollars.

**SECTION 24. REPEAL.** Sections 10-15-36, 10-19.1-141, 10-33-134, and 45-10.2-87 of the North Dakota Century Code are repealed.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1335.

House Vote:      Yeas 90              Nays 0              Absent 4

Senate Vote:      Yeas 46              Nays 0              Absent 1

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2015.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2015,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State