



# Minnesota's Corporate Farm and Foreign Ownership Law Overview

Doug Spanier | General Counsel

## **Minnesota Statute 500.24**

### Subd 3:

No corp, llc, trust, or limited partnership shall 1) engage in farming or 2) directly or indirectly, own, acquire, or otherwise obtain any interest, in agricultural land.....

## Who does it apply to?

### Subject to the law:

- Corporations
- LLCs
- Limited Partnerships
- LLLPs
- trusts

### Not subject to the law:

- Individuals
- General Partnerships
- Limited Liability Partnerships

# Minnesota Corporate Farm Law

## What is “farming?”

“Production of ag products; livestock or livestock products; milk or milk products; or fruit or other horticultural products.”

## What is NOT “farming?”

- Processing, refining, or packaging of said products
- Production of timber or forest products
- Production of poultry or poultry products

## **Minnesota Statute 500.24**

Subd 3 continued

....unless you meet one of the exemptions listed in subdivision 2.

# Minnesota Corporate Farm Law

There are 19 different exemptions in the law

- Family Farm Corporation
- Family Farm Partnership
- Family Farm LLC
- Family Farm Trust

## Family Farm:

- A majority of the shareholders/partners/members/beneficiaries are related
- At least one of the related shareholders/partners/members/beneficiaries is actively engaged in farming or resides on the land
  - If trust, you can lease it to a qualified entity.
  - If partnership or LLC, if one of the members/partners owned the land for 5 years prior to transfer, you don't need to meet the reside/actively engage requirement

# Minnesota Corporate Farm Law

- Authorized Farm Corporation
- Authorized Farm Partnership
- Authorized Farm LLC
  - No more than 5 shareholders/partners/members (husband and wife are one)
  - All are natural persons or trusts
  - Individuals holding 51% or more interest must reside on land or actively engage in farming
  - No more than 1,500 acres of land
  - Revenue from rent/dividends/royalties/interest does not exceed 20% of its gross receipts

# Minnesota Corporate Farm Law

- Authorized livestock farm corporation
- Research/experimental farm
- Breeding stock farm
- Aquatic farm
- Religious farm
- Utility corporation
- Development organization
- Exempt land
- Gifted land
- Repossessed land
- Nonprofit corporation
- De minimis
- Commissioner's Exemption

# Minnesota Corporate Farm Law

- 1995: We had 1,475 entities certified
- 2010: We have over 3,000 entities certified
- 2021: We have 7,171 entities
  - Over 80% of those will be under the “family farm” definitions

# Minnesota's Foreign Ownership Law

## **Minnesota Statutes 500.221**

- No natural person may have an interest in agricultural land unless:
  - They are a citizen of the United States; or
  - They are a permanent resident alien.

# Minnesota's Foreign Ownership Law

- A permanent resident alien is:
  - a natural person who is lawfully permitted to the United States for permanent residence; or
  - Holder of a nonimmigrant treaty investment visa pursuant to United States Code, title 8, section 1101(a)15(E)(ii).

# Minnesota's Foreign Ownership Law

- If you are lawfully permitted to be in the U.S. as a permanent resident:
  - Must maintain their actual dwelling place in the U.S. for at least 6 months out of each consecutive 12-month period.

# Minnesota's Foreign Ownership Law

- If you are a holder of the nonimmigration visa:
  - Must maintain their dwelling place in Minnesota for at least 10 months out of every 12-month period
  - Only allowed for dairy farming
  - Restricted to 1,500 acres
- This exemption is good for only 3 years unless actively pursuing citizenship

# Minnesota Foreign Ownership Law

- Currently, we have:
  - 7 permanent residents
  - 1 immigration visa holder
  - 3 grandfathered in

# Minnesota's Foreign Ownership Law

- If a business entity, they are not allowed to have any interest in agricultural land unless 80% of each stock membership or the ultimate beneficial interest in the entity is held directly or indirectly by citizens of the United States or permanent resident aliens.

# Minnesota's Foreign Ownership Law

- Exemptions to the law:
  - Common carriers
  - Devise, inheritance, as security for indebtedness, in the collection of debts, or by any procedure for the enforcement of a lien (must sell w/n 3 years)
  - Timber, mining, pipelines
  - Research
  - Vegetable processing facility for compliance with Pollution rules
  - Those rights secured by treaty

# Thank You!

**Doug Spanier**

*Douglas.Spanier@state.mn.us*

651-201-6166