

Sam Rankin, Legislative Analyst
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Corporate Farm Law 1851 - 1991

Few areas of real property law or agricultural policy are as controversial as land ownership by corporations and non-citizens. The Minnesota legislature has wrestled with this issue on over a hundred occasions during the past 135 years. It has acted on corporate farm law more than 30 times since 1851.

Chronology of Major Corporate Farm Law Changes

1851 *Revised Statutes of the Territory of Minnesota* is adopted, borrowing heavily on the *1849 Revised Statutes of the State of Wisconsin*. This document contains an unequivocal statement regarding land ownership policy:

Any alien may acquire and hold lands, or any right thereto...and he may convey, mortgage, and devise the same,...and in all cases such lands shall be held, conveyed, mortgaged, or devised...as if such alien were a native citizen of this territory or of the United States.

1858 Minnesota is granted statehood.

1859 Virtually identical language concerning alien land ownership is carried forward from territorial status to state law.

1866 Editors simplify the language of the land ownership law to read:

Aliens may take, hold, transmit and convey real estate; and no title to real estate shall be invalid on account of the alienage of any former owner.

1887 General Laws of the State of Minnesota, Chapter 204 makes substantive changes.

[This was a period of economic unrest and distress; a decade after the founding of the Patrons of Husbandry (Grange); and a time when the overwhelming economic power and dominance of the railroad corporations and Standard Oil was feared by virtually all farmers and others in production level enterprises.]

1. It is made unlawful for a person who is not a citizen or a person intending to become a citizen to acquire, hold, or own real estate acquired after December 31, 1888.
2. A corporation or association with more than 20 percent of its ownership held by persons who are not U.S. citizens is prohibited from acquiring title to any real estate after December 31, 1888, unless the right to hold land is protected by a treaty between the U.S. government and a foreign country.
3. An exception is made to the prohibitions in (1) and (2) for alien persons or corporations who acquire the land by foreclosing on a mortgage or collection of a debt.
4. For U.S. corporations, only a corporation operating a railway, canal, or turnpike is allowed to continue to hold or own more than 5,000 acres of land within the state, and those corporations can acquire and hold land in the future only if the land is actually needed for the operation of the railroad, canal, or turnpike.

1905 The legislature contracts to have the text of Minnesota Laws revised, edited, and adopted as state statute.

1907 An amendment passes, providing that if a corporation or alien acquires property by foreclosure or enforcement of a debt it must be disposed of within ten years after acquisition, and all property held at the time of enactment of this amendment (1907) must be disposed of before 1917.

1911 An amendment passes exempting from the corporate ownership prohibition any corporation actually engaged in manufacturing in the state so long as only the amount of land needed for the manufacturing operation is owned. If an exempted corporation ceases manufacturing within Minnesota, the land must be disposed of within ten years after the manufacturing ceases.

1939 The new Revisor of Statutes codifies Minnesota laws passed since 1905 and publishes them as Minnesota Statutes. The language and organizational structure of the laws is modernized, but there are no substantive changes.

1947 An amendment gives "railroad corporations" unlimited right to own and hold lands in the state.

1949 A major amendment changes the 5,000 acre corporate limitation so that it applies only to corporations engaged in farming operations. In addition, a corporation doing manufacturing within the state can continue to hold lands needed for the manufacturing business but within ten years must dispose of any additional lands not needed for the manufacturing business.

- 1953** An amendment gives "any common carrier" unlimited right to own and hold lands in the state.
- 1959** A minor amendment to the alien ownership clause validates the ownership of lands received by an alien in the dissolution of a corporation.
- 1971** A major amendment requires that foreign and domestic corporations using agricultural land for growing crops or keeping poultry or livestock must annually report their status and holdings to the Department of Agriculture.
- 1973** Existing statute (M.S. 500.22) which deals with both alien ownership and corporate ownership in the same section is repealed and the subject matter is split into two separate (new) sections of statute: (MS 500.221 for alien ownership [individual and corporate] and MS 500.24 for corporate ownership).
- Terms are defined and new land ownership structures are authorized, including "family farm corporations" and "authorized farm corporations."
- Ownership limitations are much more specific, relating specifically to "agricultural land and land capable of being used for farming..."
- Limits are placed on corporate leasing of land in addition to restrictions on direct ownership.
- A number of exceptions are spelled out, mostly for the purpose of grandfathering in corporate land holders.
- 1975** Amendments to corporate ownership law require that a majority of shareholders in an authorized farm corporation must reside on the farm or be actively engaged in farming. Also, the maximum number of shareholders in an authorized farm corporation is reduced from ten to five.
- Minor amendments restrict the rate of expansion of farm land owned by corporations through the grandfather clause.
- Regulated public utilities are allowed to own farm land for business purposes, but any farming operations on the land must be carried out under lease to a family farm.
- Exemptions are created for a large asparagus producing corporation and for religious corporations whose sole income is derived from agriculture.
- The annual report required of corporate land owners is made more detailed.

1977 Alien ownership restrictions are completely re-drafted and tightened for both natural persons and non-American corporations. Non-American corporations are defined as those with less than 80 percent of each class of stock held by citizens or permanent resident aliens of the U.S.

Existing alien land owners (individual and corporate) are grandfathered in.

All interest in agricultural land acquired by an alien person or a non-American corporation through enforcement of a debt must be disposed of within three years after the interest is acquired.

Alien land owners are required to submit a detailed report annually to the Commissioner of Agriculture.

1978 Corporate ownership restrictions are changed to exclude the production of poultry or poultry products from the definition of farming, thus allowing corporations in the poultry business to be exempt from corporate farm law.

1981 Alien ownership restrictions are tightened by requiring that an alien owner must actually reside within the U.S. for at least six months out of each 12 month period.

The Commissioner of Agriculture is given authority to investigate (with subpoena power) any information leading "him" to believe that a violation of alien ownership may exist.

Corporate ownership restrictions are applied to pension or investment funds and family trusts. Some existing holdings by family trusts are grandfathered in.

1983 An amendment to the alien corporate ownership provisions allows a foreign pipeline company (Canadian) to own 40 acre parcels of land as sites for pumping stations.

1986 An amendment to the corporate ownership law requires a corporation holding land through enforcement of a debt to lease the farm to a family farm unit. The lease agreement must prohibit intentional damage or destruction to conservation practices on the agricultural land. If conservation practices are damaged, the corporation must repay the state for any contributions the state originally made to the conservation practice, plus interest.

An amendment requires that a corporation that has foreclosed property must allow the former owner a right of first refusal for repurchase of the property.

1987 The right-of-first-refusal law is substantially expanded.

1988

The corporate farm law is expanded to include limited partnerships, and maximum acreage limits (generally 1,500 acres of farm land) are imposed.

The time limit for a corporation to own farm land is reduced from ten years to five years, but a financial institution may continue to hold farm land for up to ten years if the land is leased to the former owner.

The right-of-first-refusal law is applied to limited partnerships.

The right-of-first-refusal is further expanded, to the benefit of the previous owner.

1989

Alien persons or non-American corporations involved in vegetable processing are allowed to own agricultural land if the land is necessary to meet pollution control laws or rules.

1991

A corporation operating an aquatic farm is allowed to own or lease agricultural land necessary for operation of the aquatic farm.