

## Property Interests and Liens

## CHAPTER 500

## ESTATES IN REAL PROPERTY

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**500.01 DIVISION AS TO QUANTITY.**

Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance.

**History:** (8032) *RL s 3191*

**500.02 ESTATES OF INHERITANCE.**

Every estate of inheritance shall continue to be termed a fee simple, or fee; and every such estate, when not defeasible or conditional, shall be a fee simple absolute or an absolute fee.

**History:** (8033) *RL s 3192*

**500.03 EFFECT OF CONVEYANCE TO GRANTEE IN FEE TAIL.**

In all cases where any person, if this chapter had not been passed, would at any time hereafter become seized in fee tail of any lands, tenements, or hereditaments by virtue of any devise, gift, grant, or other conveyance heretofore made, or hereafter to be made, or by any other means, such person, instead of becoming seized thereof in fee tail, shall be deemed and adjudged to be seized thereof as in fee simple.

**History:** (8034) *RL s 3193*

**500.04 CONVEYANCE BY OWNER OF FEE TAIL ESTATE.**

Where lands, tenements, or hereditaments heretofore have been devised, granted, or otherwise conveyed by a tenant in tail, and the person to whom such devise, grant, or other conveyance has been made, or that person's heirs or assigns, have from the time such devise took effect, or from the time such grant or conveyance was made, to the day of passing this chapter, been in the uninterrupted possession of such lands, tenements, or hereditaments, and claiming and holding the same under or by virtue of such devise, grant, or other conveyance, they shall be deemed as good and legal to all intents and purposes as if such tenant in tail had, at the time of making such devise, grant, or other conveyance, been seized in fee simple of such lands, tenements, or hereditaments, any law to the contrary notwithstanding.

**History:** (8035) *RL s 3194; 1986 c 444*

**500.05 DIVISION OF REALTY OR PERSONALTY.**

Estates of inheritance and for life shall be denominated estates of freehold; estates for years shall be denominated chattels real; and estates at will or by sufferance shall be chattel interests, but shall not be liable as such to sale on execution.

An estate for the life of a third person, whether limited to heirs or otherwise, shall be deemed a freehold only during the life of the grantee or devisee, but after the death of the grantee or devisee it shall be deemed a chattel real.

**History:** (8036, 8037) *RL s 3195, 3196; 1986 c 444*

**500.06 DIVISION AS TO TIME.**

Estates, as respects the time of their enjoyment, are divided into estates in possession and estates in expectancy.

**History:** (8038) *RL s 3197*

**500.07 ESTATES IN POSSESSION.**

An estate in possession is where the owner has an immediate right to the possession of the land; an estate in expectancy is where the right to the possession is postponed to a future period.

**History:** (8038) *RL s 3197*

**500.08 ESTATES IN EXPECTANCY.**

Estates in expectancy are divided into, (1) reversions, and (2) estates commencing at a future day, denominated future estates. All expectant estates, except such as are enumerated and defined in this chapter, are abolished.

**History:** (8039, 8072) *RL s 3198, 3231*

**500.09 REVERSIONS.**

A reversion is the residue of an estate left in the grantor, or the grantor's heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised.

**History:** (8042) *RL s 3201; 1986 c 444*

**500.10 FUTURE ESTATE; STATUTORY REMAINDERS.**

A future estate is an estate limited to commence in possession at a future day, either without the intervention of a precedent estate, or on the determination, by lapse of time or otherwise, of a precedent estate created at the same time.

**History:** (8040) *RL s 3199*

**500.11 FUTURE ESTATES; INCLUSIVENESS.**

**Subdivision 1. Common law remainders.** When a future estate is dependent upon a precedent estate, it may be termed a remainder, and may be created and transferred by that name.

When a remainder on an estate for life or for years is not limited on a contingency defeating or avoiding such precedent estate, it shall be construed as intended to take effect only on the death of the first taker, or at the expiration, by lapse of time, of such term of years.

**Subd. 2. Conditional limitations; shifting interests.** A remainder may be limited on a contingency which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder shall be construed a conditional limitation, and have the same effect as such limitation would have by 'aw.

**Subd. 3. Springing interests.** Subject to the rules established in this chapter, a freehold estate, as well as a chattel real, may be created to commence at a future day; an estate for life may be created in a term of years, and a remainder limited thereon.

**History:** (8041, 8054, 8057, 8059) *RL s 3200, 3213, 3216, 3218*

**500.12 FUTURE ESTATES; CONTINGENT.**

Future estates are either vested or contingent. They are contingent while the person to whom, or the event upon which, they are limited to take effect remains uncertain.

*History: (8043) RL s 3202; 1943 c 69 s 1*

**500.13** [Repealed, 1987 c 60 s 6; 1988 c 482 s 10; 1989 c 340 art 1 s 77]

**500.14 FUTURE ESTATES; CONSTRUCTION, VALIDITY, AND EFFECT OF CREATING INSTRUMENTS.**

**Subdivision 1. Failure of heirs or issue.** Unless a different intent is effectively manifested, whenever property is limited upon the death of any person without "heirs" or "heirs of the body" or "issue" general or special, or "descendants" or "offspring" or "children" or any such relative described by other terms, the limitation is to take effect only when that person dies not having such relative living at the time of the person's death, or in gestation and born alive thereafter, and is not a limitation to take effect upon the indefinite failure of such relatives; nor, unless a different intent is effectively manifested, does the limitation mean that death without such relative is restricted in time to the lifetime of the creator of the interest.

**Subd. 2. Alternative future estates.** Two or more future estates may also be created, to take effect in the alternative, so that if the first in order fails to vest the next in succession shall be substituted for it, and take effect accordingly.

**Subd. 3. Probability of contingency.** No future estate, otherwise valid, shall be void on the ground of the probability or improbability of the contingency on which it is limited to take effect.

**Subd. 4. Certain remainders vest by purchase.** When a remainder is limited to the heirs, or heirs of the body, of a person to whom a life estate in the same premises is given, the persons who, on the termination of the life estate, are the heirs or heirs of the body of such tenant for life shall be entitled to take as purchasers, by virtue of the remainder so limited to them. No conveyance, transfer, devise, or bequest of an interest, legal or equitable, in real or personal property, shall fail to take effect by purchase because limited to a person or persons, howsoever described, who would take the same interest by descent or distribution.

**Subd. 5. Posthumous children as remainderpersons.** When a future estate is limited to heirs, or issue, or children, posthumous children shall be entitled to take in the same manner as if living at the death of their parent.

**Subd. 6. Effect of posthumous birth on event of "death without issue."** A future estate, depending on the contingency of the death of any person without heirs or issue or children, shall be defeated by the birth of a posthumous child of such person capable of taking by descent.

*History: (8052-1, 8055, 8056, 8058, 8060, 8061) RL s 3211, 3214, 3215, 3217, 3219, 3220; 1939 c 90; 1939 c 378; 1986 c 444*

**500.15 FUTURE ESTATES; PROTECTION FROM DESTRUCTIBILITY RULES.**

**Subdivision 1. Destruction of precedent estate by act of its owner.** No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate, by dis-seizin, forfeiture, surrender, merger, or otherwise.

**Subd. 2. Exception.** Subdivision 1 shall not be construed to prevent an expectant estate from being defeated in any manner, or by any act or means, which the party creating such estate has, in the creation thereof, provided or authorized; nor shall an expectant estate thus liable to be defeated be on that ground adjudged void in its creation.

**Subd. 3. Premature determination of precedent estate.** No remainder, valid in its creation, shall be defeated by the determination of the precedent estate before the happening of the contingency on which the remainder is limited to take effect; but, should such contingency afterward happen, the remainder shall take effect in the same manner and to the same extent as if the precedent estate had continued to the same period.

*History: (8062, 8063, 8064) RL s 3221, 3222, 3223*

**500.16 ALIENABILITY AND DESCENDIBILITY OF EXPECTANT ESTATES INCLUDING REVERSIONARY POSSIBILITIES.**

Expectant estates are descendible, devisable, and alienable in the same manner as estates in possession; and hereafter contingent rights of reentry for breach of conditions subsequent, and rights to possession for breach of conditions subsequent after breach but before entry made, and possibilities of reverter, shall be descendible, devisable, and alienable in the same manner as estate in possession.

**History:** (8065) *RL s 3224; 1937 c 487 s 2*

**500.17 FUTURE ESTATES; RENTS AND PROFITS.**

Subdivision 1. **Disposal; rules governing.** Dispositions of the rents and profits of lands, to accrue and be received at any time subsequent to the execution of the instrument creating such disposition, shall be governed by the rules established in this chapter in relation to future estates in lands.

Subd. 2. **Accumulation.** Where the controlling will or other written instrument permits accumulation, either expressly or by necessary implication, income from personal property and rents and profits from real estate may be accumulated for the period during which the power of alienation may be suspended by future interests in real or personal property not held in trust under section 501B.09, subdivision 3. Where any will or other instrument authorizes accumulation beyond the period permissible under this section, such authorization shall be void only as to the excess period.

Reasonable sums set aside for depreciation and depletion shall not be deemed an accumulation within the meaning of this section.

Subd. 3. [Repealed, 1965 c 682 s 2]

Subd. 4. **Support of minor beneficiaries.** When such rents and profits are directed to be accumulated for the benefit of infants entitled to the expectant estate, and such infants are destitute of other sufficient means of support and education, the district court, upon the application of their guardian, may direct a suitable sum, out of such rents and profits, to be applied to their maintenance and education.

Subd. 5. **Ownership in case of valid suspension of the power of alienation.** When, in consequence of a valid limitation of an expectant estate, there is a suspension of the power of alienation, or of ownership, during the continuance of which the rents and profits are undisposed of, and no valid direction for their accumulation is given, such rents and profits shall belong to the person presumptively entitled to the next eventual estate.

Subd. 6. **Accumulations of rents and profits of real estate held by trustee.** The provisions of this section shall not apply to the accumulations of rents and profits of real estate held or owned by a trustee or trustees of a trust forming a part of a stock bonus, pension, retirement or profit sharing plan or fund exempt from tax under the provisions of the Internal Revenue Code of the United States, and rents and profits of real estate held or owned by any such trustee or trustees may be accumulated without restriction as to time.

**History:** (8066, 8067, 8068, 8069, 8070) *RL s 3225, 3226, 3227, 3228, 3229; 1953 c 424 s 1; 1965 c 682 s 1; 1987 c 60 s 9; 1989 c 340 art 1 s 73*

**500.18 COMMENCEMENT OF EXPECTANT ESTATES.**

The delivery of the grant, where an expectant estate is created by grant, and, where it is created by devise, the death of the testator, shall be deemed the time of the creation of the estate.

**History:** (8071) *RL s 3230*

**500.19 DIVISION.**

Subdivision 1. **According to number.** Estates, in respect to the number and connection of their owners, are divided into estates in severalty, in joint tenancy, and in com-

mon; the nature and properties of which, respectively, shall continue to be such as are now established by law, except so far as the same may be modified by the provisions of this chapter.

Subd. 2. **Construction of grants and devises.** All grants and devises of lands, made to two or more persons, shall be construed to create estates in common, and not in joint tenancy, unless expressly declared to be in joint tenancy. This subdivision shall not apply to mortgages, nor to devises or grants made in trust, or to executors.

Subd. 3. **Joint tenancy requirements abolished.** The common-law requirement for unity of time, title, interest, and possession in the creation of a joint tenancy is abolished.

Subd. 4. **Conveying interest directly.** (a) Subject to section 507.02 specifying when both spouses must join in a conveyance of their homestead, one or more owners of an interest in real estate may convey all or part of the interest directly to one or more other persons or to one or more of themselves, or to any combination of one or more of themselves and other persons.

(b) Subject to section 507.02 specifying when both spouses must join in a conveyance of their homestead, conveyances between spouses are allowed under paragraph (a) to the same extent as those between unmarried persons.

Subd. 5. **Severance of estates in joint tenancy.** A severance of a joint tenancy interest in real estate by a joint tenant shall be legally effective only if (1) the instrument of severance is recorded in the office of the county recorder or the registrar of titles in the county where the real estate is situated; or (2) the instrument of severance is executed by all of the joint tenants; or (3) the severance is ordered by a court of competent jurisdiction; or (4) a severance is effected pursuant to bankruptcy of a joint tenant.

A decree of dissolution of a marriage severs all joint tenancy interests in real estate between the parties to the marriage, except to the extent the decree declares that the parties continue to hold an interest in real estate as joint tenants.

**History:** (8073, 8074) *RL s 3232, 3233; 1979 c 123 s 1-4; 1986 c 444; 1987 c 26 s 2; 1990 c 575 s 4; 1994 c 388 art 1 s 3*

## 500.20 DEFEASIBLE ESTATES.

Subdivision 1. **Nominal conditions and limitations.** When any covenants, conditions, restrictions or extensions thereof annexed to a grant, devise or conveyance of land are, or shall become, merely nominal, and of no actual and substantial benefit to the party or parties to whom or in whose favor they are to be performed, they may be wholly disregarded; and a failure to perform the same shall in no case operate as a basis of forfeiture of the lands subject thereto.

Subd. 2. [Repealed, 1982 c 500 s 5]

Subd. 2a. **Restriction of duration of condition.** Except for any right to reenter or to repossess as provided in subdivision 3, all private covenants, conditions, or restrictions created by which the title or use of real property is affected, cease to be valid and operative 30 years after the date of the deed, or other instrument, or the date of the probate of the will, creating them, and may be disregarded.

This subdivision does not apply to covenants, conditions, or restrictions:

(1) that were created before August 1, 1988, by deed or other instrument dated on or after August 1, 1982, or by will the date of death of the testator of which was on or after August 1, 1982;

(2) that were created before August 1, 1959, under which a person who owns or has an interest in real property against which the covenants, conditions, or restrictions have been filed claims a benefit of the covenant, condition, or restriction if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located, on or before March 30, 1989, a notice sworn to by the claimant or the claimant's agent or attorney; setting forth the name of the claimant; describing the real estate affected; describing the deed, instru-

ment, or will creating the covenant, condition, or restriction; and stating that the covenant, condition, or restriction is not nominal and may not be disregarded under subdivision 1;

(3) that are created by the declaration, bylaws, floor plans, or condominium plat of a condominium created before August 1, 1980, under sections 515.01 to 515.29 or created on or after August 1, 1980, under sections 515A.1-101 to 515A.4-117, or by any amendments of the declaration, bylaws, floor plans, or condominium plat;

(4) that are created by the articles of incorporation, bylaws, or proprietary leases of a cooperative association formed under chapter 308A;

(5) that are created by a declaration or other instrument that authorizes and empowers a corporation of which the qualification for being a stockholder or member is ownership of certain parcels of real estate, to hold title to common real estate for the benefit of the parcels;

(6) that are created by a deed, declaration, reservation, or other instrument by which one or more portions of a building, set of connecting or adjacent buildings, or complex or project of related buildings and structures share support, structural components, ingress and egress, or utility access with another portion or portions;

(7) that were created after July 31, 1959, and before August 1, 1982, under which a person who owns or has an interest in real estate against which covenants, conditions, or restrictions have been filed claims a benefit of the covenants, conditions, or restrictions if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located during the period commencing on the 28th anniversary of the date of the deed or instrument, or the date of the probate of the will, creating them and ending on the 30th anniversary, a notice as described in clause (2); or

(8) that are created by a declaration or bylaws of a common interest community created under or governed by chapter 515B, or by any amendments thereto.

A notice filed in accordance with clause (2) or (7) delays application of this subdivision to the covenants, conditions, or restrictions for a period ending on the later of seven years after the date of filing of the notice, or until final judgment is entered in an action to determine the validity of the covenants, conditions, or restrictions, provided in the case of an action the summons and complaint must be served and a notice of lis pendens must be recorded in the office of the county recorder or filed in the office of the registrar of titles in each county in which the real estate affected is located within seven years after the date of recording or filing of the notice under clause (2) or (7).

County recorders and registrars of titles shall accept for recording or filing a notice conforming with this subdivision and charge a fee corresponding with the fee charged for filing a notice of lis pendens of similar length. The notice may be discharged in the same manner as a notice of lis pendens and when discharged, together with the information included with it, ceases to constitute either actual or constructive notice.

**Subd. 3. Time to assert power of termination.** Hereafter any right to reenter or to repossess land on account of breach made in a condition subsequent shall be barred unless such right is asserted by entry or action within six years after the happening of the breach upon which such right is predicated.

**History:** (8075) *RL s 3234; 1937 c 487 s 1; 1982 c 500 s 1; 1988 c 477 s 1; 1989 c 144 art 2 s 9; 1993 c 222 art 5 s 2*

**NOTE:** Subdivision 2a, as added by Laws 1988, chapter 477, section 1, does not apply to real property in the city of North Oaks. See Laws 1988, chapter 477, section 2.

## 500.21 APPLICATION TO GROUND LEASE.

The provisions of sections 500.16 and 500.20 shall not apply to so-called ground leases providing for the construction by the lessee of buildings or other structures upon the lands of the lessor.

**History:** (8075-1) *1937 c 487 s 3*

**500.22** Subdivision 1. [Repealed, 1977 c 269 s 2]

Subd. 2. [Repealed, 1959 c 495 s 3]

Subd. 3. [Repealed, 1973 c 427 s 2]

Subd. 4. [Repealed, 1973 c 427 s 2]

Subd. 5. [Repealed, 1973 c 427 s 2]

**500.221 RESTRICTIONS ON ACQUISITION OF TITLE.**

Subdivision 1. **Definitions.** For purposes of this section, "agricultural land" means land capable of use in the production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit and other horticultural products but does not include any land zoned by a local governmental unit for a use other than and nonconforming with agricultural use. For the purposes of this section, "interest in agricultural land" includes any leasehold interest. For the purposes of this section, a "permanent resident alien of the United States" is a natural person who has been lawfully admitted to the United States for permanent residence and in fact maintains that person's principal, actual dwelling place within the United States for at least six months out of every consecutive 12-month period without regard to intent. For the purposes of this section, "commissioner" means the commissioner of agriculture.

Subd. 1a. **Determination of alien status.** An alien who has been physically absent from the United States for more than six months out of any 12-month period shall be presumed not to be a permanent resident alien. Every permanent resident alien of the United States who owns property subject to this section shall annually, at some time during the month of January, file with the commissioner a statement setting forth the dates and places of that person's residence in the United States during the prior calendar year. The statement shall include an explanation of absences totaling more than six months during the prior calendar year and any facts which support the continuation of permanent resident alien status. Upon receipt of the statement, the commissioner shall have 30 days to review the statement and notify the resident alien whether the facts support continuation of the permanent resident alien status.

Subd. 2. **Aliens and non-American corporations.** Except as hereinafter provided, no natural person shall acquire directly or indirectly any interest in agricultural land unless the person is a citizen of the United States or a permanent resident alien of the United States. In addition to the restrictions in section 500.24, no corporation, partnership, limited partnership, trustee, or other business entity shall directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial or otherwise, in any title to agricultural land unless at least 80 percent of each class of stock issued and outstanding or 80 percent of the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens. This section shall not apply:

(1) 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. All agricultural land acquired in the collection of debts or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership;

(2) to citizens or subjects of a foreign country whose rights to hold land are secured by treaty;

(3) to lands used for transportation purposes by a common carrier, as defined in section 218.011, subdivision 2;

(4) to lands or interests in lands acquired for use in connection with mining and mineral processing operations. Pending the development of agricultural land for mining purposes the land may not be used for farming except under lease to a family farm, a family farm corporation or an authorized farm corporation;

(5) to agricultural land operated for research or experimental purposes if the ownership of the agricultural land is incidental to the research or experimental objectives

of the person or business entity and the total acreage owned by the person or business entity does not exceed the acreage owned on May 27, 1977;

(6) to the purchase of any tract of 40 acres or less for facilities incidental to pipeline operation by a company operating a pipeline as defined in section 116I.01, subdivision 3; or

(7) to agricultural land and land capable of being used as farmland in vegetable processing operations that is reasonably necessary to meet the requirements of pollution control law or rules.

**Subd. 2a. Loss of exempt status.** If any person or business entity acquires an interest in agricultural land as permitted by subdivision 2 and thereafter ceases to be a person or entity qualified to acquire an interest in agricultural land as permitted by subdivision 2 by reason of the loss of citizenship or permanent residence status or the loss of citizenship or permanent residence status of its shareholders or the holders of ultimate beneficial interests, the person or entity shall:

(a) Notify the commissioner within 30 days of the loss of qualification and file a report with the commissioner of agriculture giving a description of all agricultural land owned by the person or entity within the state, the date upon which the land was acquired, the date upon which the person or entity ceased to be qualified, and other information reasonably required by the commissioner;

(b) Divest itself of any agricultural land acquired after May 27, 1981 within one year of the date upon which the person or entity ceased to be qualified;

(c) Report the divestiture to the commissioner of agriculture within 90 days after it occurs;

(d) Make other reports as the commissioner may reasonably require; and

(e) Continue to file periodic reports as required by subdivision 4 with respect to any land acquired on or before May 27, 1977.

**Subd. 2b. Investigation by commissioner.** The commissioner, upon the request of any person or upon receipt of any information which leads the commissioner to believe that a violation of this section may exist, may issue subpoenas requiring the appearance of witnesses, the production of relevant records and the giving of relevant testimony. On concluding, as a result of the investigation, that a violation of this section may have occurred, the commissioner shall provide the landowner or the landowner's designee with the opportunity to meet with the commissioner or the commissioner's designee in the county where the land is located to exchange information relating to the compliance with this section and any necessity for divestiture. The commissioner shall have the power to issue additional subpoenas for the meeting. The landowner and any person subpoenaed by the commissioner may be represented by counsel. Notwithstanding the provisions of chapter 14, the preliminary investigation and the meeting do not constitute a contested case hearing.

**Subd. 3. Enforcement.** With reason to believe, after investigation, that any person is violating this section, the commissioner shall commence an action in the district court in which any agricultural land relative to the violation is situated, or if situated in two or more counties, in any county in which a substantial part of the land is situated. The commissioner shall file for record with the county recorder or the registrar of titles of each county in which any portion of the land is located a notice of the pendency of the action as provided in section 557.02. If the court finds that the land in question is being held in violation of subdivision 2, it shall enter an order so declaring. The commissioner shall file for record any order with the county recorder or the registrar of titles of each county in which any portion of the land is located. Thereafter, the natural person, corporation, partnership, limited partnership, trustee or other business entity, shall have a period of one year from the date of the order to divest itself of the lands. The aforementioned one year limitation period shall be deemed a covenant running with the title to the land against any grantee or assignee or successor corporation or any noncorporation entity acting as agent, assignee, or successor on behalf of a corporation. Any land not so divested within the time prescribed shall be sold at public sale in the



manner prescribed by law for the foreclosure of a mortgage by action. No title to land shall be invalid or subject to forfeiture by reason of the alienage of any former owner or person having a former interest therein.

**Subd. 3a. Injunction.** The commissioner may seek injunctive relief whenever a violation of this section is threatened.

**Subd. 3b. Agreement.** The commissioner is authorized to enter into a written agreement in settlement of any alleged violation, whether or not a hearing is held on the violation. An agreement may provide for an extension of the time period for divestiture but shall not include a waiver of a divestiture required by this section. The agreement shall be construed as a "No Contest" pleading and may include any sanctions, penalties, or affirmative actions which are mutually satisfactory and are consistent with this section. The agreement shall be final and conclusive with respect to the action, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact. The matter agreed upon shall not be reopened or modified by an officer, employee, or agent of the state. The agreement shall be filed in Ramsey county district court and shall be enforceable by it or the district court of the county in which the person resides or principally does business. Any violator of an agreement may, after notice is given to the alleged violator and a hearing is held, be punished by the district court as for contempt, in addition to other remedies in this section.

**Subd. 4. Reports.** Any natural person, corporation, partnership, limited partnership, trustee, or other business entity prohibited from future acquisition of agricultural land may retain title to any agricultural land lawfully acquired within this state prior to June 1, 1981, but shall file a report with the commissioner of agriculture annually before January 31 containing a description of all agricultural land held within this state, the purchase price and market value of the land, the use to which it is put, the date of acquisition and any other reasonable information required by the commissioner. The commissioner shall make the information available to the public. All required annual reports shall include a filing fee of \$50 plus \$10 for each additional quarter section of land.

**Subd. 5. Penalty.** Willful failure to properly register any parcel of land as required by subdivision 4 is a gross misdemeanor. Each full month of failure to register is a separate offense.

**History:** 1977 c 269 s 1; 1981 c 337 s 1; 1982 c 424 s 130; 1983 c 240 s 1; 1983 c 293 s 107; 1986 c 444; 1989 c 353 s 10; 1989 c 356 s 66; 1994 c 465 art 3 s 36

## CORPORATE USE OF AGRICULTURAL LANDS

**500.23** [Repealed, 1973 c 427 s 2]

### 500.24 CORPORATE AND PARTNERSHIP FARMING.

**Subdivision 1. Purpose.** The legislature finds that it is in the interests of the state to encourage and protect the family farm as a basic economic unit, to insure it as the most socially desirable mode of agricultural production, and to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family.

**Subd. 2. Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings here given them:

(a) "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include the processing, refining, or packaging of said products, nor the provision of spraying or harvesting services by a processor or distributor of farm products. It does not include the production of timber or forest products or the production of poultry or poultry products.

(b) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

(c) "Family farm corporation" means a corporation founded for the purpose of

farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of said related persons is residing on or actively operating the farm, and none of whose stockholders are corporations; provided that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock.

(d) "Authorized farm corporation" means a corporation meeting the following standards under clause (1) or (2):

- (1)(i) its shareholders do not exceed five in number;
- (ii) all its shareholders, other than any estate are natural persons;
- (iii) it does not have more than one class of shares; and
- (iv) its revenues from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts; and
- (v) shareholders holding 51 percent or more of the interest in the corporation must be residing on the farm or actively engaging in farming;
- (vi) the authorized farm corporation, directly or indirectly, owns or otherwise has an interest, whether legal, beneficial, or otherwise, in any title to no more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(vii) a shareholder of the authorized farm corporation is not a shareholder in other authorized farm corporations that directly or indirectly in combination with the authorized farm corporation own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; or

(2)(i) the corporation is engaged in the production of livestock other than dairy cattle; and not engaged in farming activities otherwise prohibited under this section;

(ii) all its shareholders other than an estate, are natural persons or a family farm corporation;

(iii) it does not have more than one class of shares;

(iv) its revenue from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts;

(v) shareholders holding 75 percent or more of the control and financial investment in the corporation must be farmers residing in Minnesota and at least 51 percent of the required percentage of farmers must be actively engaged in livestock production;

(vi) the authorized farm corporation, directly or indirectly, owns or otherwise has an interest, whether legal, beneficial, or otherwise, in any title to no more than 1,500 acres of real estate used for farming or capable of being used for farming in this state;

(vii) a shareholder of the authorized farm corporation is not a shareholder in other authorized farm corporations that directly or indirectly in combination with the authorized farm corporation own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(viii) the corporation was formed for the production of livestock other than dairy cattle by natural persons or family farm corporations that provide 75 percent or more of the capital investment.

(e) "Agricultural land" means land used for farming.

(f) "Pension or investment fund" means a pension or employee welfare benefit fund, however organized, a mutual fund, a life insurance company separate account, a common trust of a bank or other trustee established for the investment and reinvestment of money contributed to it, a real estate investment trust, or an investment company as defined in United States Code, title 15, section 80a-3. "Pension or investment fund" does not include a benevolent trust established by the owners of a family farm, authorized farm corporation or family farm corporation.

(g) "Farm homestead" means a house including adjoining buildings that has been

used as part of a farming operation or is part of the agricultural land used for a farming operation.

(h) "Family farm partnership" means a limited partnership formed for the purpose of farming and the ownership of agricultural land in which the majority of the interests in the partnership is held by and the majority of the partners are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of the partners are corporations. A family farm partnership does not cease to qualify as a family farm partnership because of a devise or bequest of interest in the partnership.

(i) "Authorized farm partnership" means a limited partnership meeting the following standards:

(1) it has been issued a certificate from the secretary of state or is registered with the county recorder and farming and ownership of agricultural land is stated as a purpose or character of the business;

(2) its partners do not exceed five in number;

(3) all its partners, other than an estate, are natural persons;

(4) its revenues from rent, royalties, dividends, interest, and annuities do not exceed 20 percent of its gross receipts;

(5) its general partners hold at least 51 percent of the interest in the land assets of the partnership and reside on the farm or are actively engaging in farming not more than 1,500 acres as a general partner in an authorized limited partnership;

(6) its limited partners do not participate in the business of the limited partnership including operating, managing, or directing management of farming operations;

(7) the authorized farm partnership, directly or indirectly, does not own or otherwise have an interest, whether legal, beneficial, or otherwise, in a title to more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(8) a limited partner of the authorized farm partnership is not a limited partner in other authorized farm partnerships that directly or indirectly in combination with the authorized farm partnership own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state.

(j) "Farmer" means a person who regularly participates in physical labor or operations management in the farmer's farming operation and files "Schedule F" as part of the person's annual Form 1040 filing with the United States Internal Revenue Service.

(k) "Actively engaged in livestock production" means that a person performs day-to-day physical labor or day-to-day operations management that significantly contributes to livestock production and the functioning of a livestock operation.

**Subd. 3. Farming and ownership of agricultural land by corporations restricted.** No corporation, limited liability company, pension or investment fund, or limited partnership shall engage in farming; nor shall any corporation, limited liability company, pension or investment fund, or limited partnership, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial or otherwise, in any title to real estate used for farming or capable of being used for farming in this state. Livestock that are delivered for slaughter or processing may be fed and cared for by a corporation up to 20 days prior to slaughter or processing. Provided, however, that the restrictions in this subdivision do not apply to corporations or partnerships in clause (b) and do not apply to corporations, limited partnerships, and pension or investment funds that record its name and the particular exception under clauses (a) to (s) under which the agricultural land is owned or farmed, have a conservation plan prepared for the agricultural land, report as required under subdivision 4, and satisfy one of the following conditions under clauses (a) to (s):

(a) a bona fide encumbrance taken for purposes of security;

(b) a family farm corporation, an authorized farm corporation, a family farm part-

nership, or an authorized farm partnership as defined in subdivision 2 or a general partnership;

(c) agricultural land and land capable of being used for farming owned by a corporation as of May 20, 1973, or a pension or investment fund as of May 12, 1981, including the normal expansion of such ownership at a rate not to exceed 20 percent of the amount of land owned as of May 20, 1973, or, in the case of a pension or investment fund, as of May 12, 1981, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(d) agricultural land operated for research or experimental purposes with the approval of the commissioner of agriculture, provided that any commercial sales from the operation must be incidental to the research or experimental objectives of the corporation. A corporation, limited partnership, or pension or investment fund seeking to operate agricultural land for research or experimental purposes must submit to the commissioner a prospectus or proposal of the intended method of operation, containing information required by the commissioner including a copy of any operational contract with individual participants, prior to initial approval of an operation. A corporation, limited partnership, or pension or investment fund operating agricultural land for research or experimental purposes prior to May 1, 1988, must comply with all requirements of this clause except the requirement for initial approval of the project;

(e) agricultural land operated by a corporation or limited partnership for the purpose of raising breeding stock, including embryos, for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod. An entity that is organized to raise livestock other than dairy cattle under this clause that does not meet the definition requirement for an authorized farm corporation must:

(1) sell all castrated animals to be fed out or finished to farming operations that are neither directly nor indirectly owned by the business entity operating the breeding stock operation; and

(2) report its total production and sales annually to the commissioner of agriculture;

(f) agricultural land and land capable of being used for farming leased by a corporation or limited partnership in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of May 20, 1973, or to the limited partnership as of May 1, 1988, and the additional acreage required for normal expansion at a rate not to exceed 20 percent of the amount of land leased as of May 20, 1973, for a corporation or May 1, 1988, for a limited partnership in any five-year period, and the additional acreage reasonably necessary to meet the requirements of pollution control rules;

(g) agricultural land when acquired as a gift (either by grant or a devise) by an educational, religious, or charitable nonprofit corporation or by a pension or investment fund or limited partnership; provided that all lands so acquired by a pension or investment fund, and all lands so acquired by a corporation or limited partnership which are not operated for research or experimental purposes, or are not operated for the purpose of raising breeding stock for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod must be disposed of within ten years after acquiring title thereto;

(h) agricultural land acquired by a pension or investment fund or a corporation other than a family farm corporation or authorized farm corporation, as defined in subdivision 2, or a limited partnership other than a family farm partnership or authorized farm partnership as defined in subdivision 2, for which the corporation or limited partnership has documented plans to use and subsequently uses the land within six years from the date of purchase for a specific nonfarming purpose, or if the land is zoned non-agricultural, or if the land is located within an incorporated area. A pension or investment fund or a corporation or limited partnership may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corpora-

tion, an authorized farm corporation, a family farm partnership, or an authorized farm partnership, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation which has entered into an agreement with the United States of America pursuant to the New Community Act of 1968 (Title IV of the Housing and Urban Development Act of 1968, United States Code, title 42, sections 3901 to 3914) as amended, or a subsidiary or assign of such a corporation;

(i) agricultural lands acquired by a pension or investment fund or a corporation or limited partnership 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, however, that all lands so acquired be disposed of within ten years after acquiring the title if acquired before May 1, 1988, and five years after acquiring the title if acquired on or after May 1, 1988, acquiring the title thereto, and further provided that the land so acquired shall not be used for farming during the ten-year or five-year period except under a lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership. The aforementioned ten-year or five-year limitation period shall be deemed a covenant running with the title to the land against any grantee, assignee, or successor of the pension or investment fund, corporation, or limited partnership. Notwithstanding the five-year divestiture requirement under this clause, a financial institution may continue to own the agricultural land if the agricultural land is leased to the immediately preceding former owner, but must divest of the agricultural land within the ten-year period. Livestock acquired by a pension or investment fund, corporation, or limited partnership in the collection of debts, or by a procedure for the enforcement of lien or claim on the livestock whether created by security agreement or otherwise after August 1, 1994, must be sold or disposed of within one full production cycle for the type of livestock acquired or 18 months after the livestock is acquired, whichever is later;

(j) agricultural land acquired by a corporation regulated under the provisions of Minnesota Statutes 1974, chapter 216B, for purposes described in that chapter or by an electric generation or transmission cooperative for use in its business, provided, however, that such land may not be used for farming except under lease to a family farm unit, a family farm corporation, or a family farm partnership;

(k) agricultural land, either leased or owned, totaling no more than 2,700 acres, acquired after May 20, 1973, for the purpose of replacing or expanding asparagus growing operations, provided that such corporation had established 2,000 acres of asparagus production;

(l) all agricultural land or land capable of being used for farming which was owned or leased by an authorized farm corporation as defined in Minnesota Statutes 1974, section 500.24, subdivision 1, clause (d), but which does not qualify as an authorized farm corporation as defined in subdivision 2, clause (d);

(m) a corporation formed primarily for religious purposes whose sole income is derived from agriculture;

(n) agricultural land owned or leased by a corporation prior to August 1, 1975, which was exempted from the restriction of this subdivision under the provisions of Laws 1973, chapter 427, including normal expansion of such ownership or leasehold interest to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1975, in any five-year period and the additional ownership reasonably necessary to meet requirements of pollution control rules;

(o) agricultural land owned or leased by a corporation prior to August 1, 1978, including normal expansion of such ownership or leasehold interest, to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1978, and the additional ownership reasonably necessary to meet requirements of pollution control rules, provided that nothing herein shall reduce any exemption contained under the provisions of Laws 1975, chapter 324, section 1, subdivision 2;

(p) an interest in the title to agricultural land acquired by a pension fund or family trust established by the owners of a family farm, authorized farm corporation or family farm corporation, but limited to the farm on which one or more of those owners or

shareholders have resided or have been actively engaged in farming as required by subdivision 2, clause (b), (c), or (d);

(q) agricultural land owned by a nursing home located in a city with a population, according to the state demographer's 1985 estimate, between 900 and 1,000, in a county with a population, according to the state demographer's 1985 estimate, between 18,000 and 19,000, if the land was given to the nursing home as a gift with the expectation that it would not be sold during the donor's lifetime. This exemption is available until July 1, 1995;

(r) the acreage of agricultural land and land capable of being used for farming owned and recorded by an authorized farm corporation as defined in Minnesota Statutes 1986, section 500.24, subdivision 2, paragraph (d), or a limited partnership as of May 1, 1988, including the normal expansion of the ownership at a rate not to exceed 20 percent of the land owned and recorded as of May 1, 1988, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(s) agricultural land owned or leased as a necessary part of an aquatic farm as defined in section 17.47, subdivision 3.

**Subd. 3a. Lease agreement; conservation practice protection clause.** A corporation, pension or investment fund, or limited partnership, other than a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership, when leasing farm land to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership under provisions of subdivision 3, clause (i), must include within the lease agreement a provision prohibiting intentional damage or destruction to a conservation practice on the agricultural land.

**Subd. 3b. Protection of conservation practices.** If a corporation, pension or investment fund, or limited partnership, other than a family farm corporation, an authorized farm corporation, a family farm partnership, or authorized farm partnership, during the period of time it holds agricultural land under subdivision 3, clause (i), intentionally destroys a conservation practice as defined in section 103F.401, subdivision 3, to which the state has made a financial contribution, the corporation, pension or investment fund, or limited partnership must pay the commissioner of agriculture, for deposit in the general fund, an amount equal to the state's total contributions to that conservation practice plus interest from the time of investment in the conservation practice. Interest must be calculated at an annual percentage rate of 12 percent.

**Subd. 4. Reports.** (a) The chief executive officer of every pension or investment fund, corporation, or limited partnership, except a family farm corporation or a family farm limited partnership, that holds any interest in agricultural land or land used for the breeding, feeding, pasturing, growing, or raising of livestock, dairy or poultry, or products thereof, or land used for the production of agricultural crops or fruit or other horticultural products, other than a bona fide encumbrance taken for purposes of security, or which is engaged in farming or proposing to commence farming in this state after May 20, 1973, shall file with the commissioner of agriculture a report containing the following information and documents:

(1) the name of the pension or investment fund, corporation, or limited partnership and its place of incorporation, certification, or registration;

(2) the address of the pension or investment plan headquarters or of the registered office of the corporation in this state, the name and address of its registered agent in this state and, in the case of a foreign corporation or limited partnership, the address of its principal office in its place of incorporation, certification, or registration;

(3) the acreage and location listed by quarter-quarter section, township and county of each lot or parcel of land in this state owned or leased by the pension or investment fund, limited partnership, or corporation and used for the growing of crops or the keeping or feeding of poultry or livestock;

(4) the names and addresses of the officers, administrators, directors or trustees

of the pension or investment fund, or of the officers, shareholders owning more than ten percent of the stock, including the percent of stock owned by each such shareholder, and the members of the board of directors of the corporation, and the general and limited partners and the percentage of interest in the partnership by each partner;

(5) the farm products which the pension or investment fund, limited partnership, or corporation produces or intends to produce on its agricultural land;

(6) with the first report, a copy of the title to the property where the farming operations are or will occur indicating the particular exception claimed under subdivision 3, clauses (a) to (r); and

(7) with the first or second report, a copy of the conservation plan proposed by the soil and water conservation district, and with subsequent reports a statement of whether the conservation plan was implemented.

The report of a corporation seeking to qualify hereunder as a family farm corporation, an authorized farm corporation, a family farm partnership, or authorized farm partnership shall contain the following additional information: the number of shares or the partnership interests owned by persons residing on the farm or actively engaged in farming, or their relatives within the third degree of kindred according to the rules of the civil law or their spouses; the name, address, and number of shares owned by each shareholder or partnership interests owned by each partner; and a statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities. No pension or investment fund, limited partnership, or corporation shall commence farming in this state until the commissioner of agriculture has inspected the report and certified that its proposed operations comply with the provisions of this section.

(b) Every pension or investment fund, limited partnership, or corporation as described in clause (a) shall, prior to April 15 of each year, file with the commissioner of agriculture a report containing the information required in clause (a), based on its operations in the preceding calendar year and its status at the end of the year. A pension or investment fund, limited partnership, or corporation that does not file the report by April 15 must pay a \$500 civil penalty. The penalty is a lien on the land being farmed under subdivision 3 until the penalty is paid.

(c) The commissioner or the commissioner's authorized representative may enter into a written agreement with a person required to file a report under this subdivision who, for good cause shown, has failed to make a timely filing. An agreement must be construed as a "no contest" pleading and may encompass a reduction or waiver of the civil penalty for late filing. The agreement is final and conclusive with respect to the civil penalty, except upon a showing of fraud or malfeasance or misrepresentation of a material fact. The matter agreed upon in the agreement may not be reopened or modified by an officer, employee, or agent of the state. The report required under paragraph (b) must be completed prior to a reduction or waiver under this paragraph. The commissioner may enter into an agreement under this paragraph only once for each person required to file under this subdivision. The commissioner may enter into an agreement under this paragraph only once for each corporation or partnership.

(d) Failure to file a required report, or the willful filing of false information, shall constitute a gross misdemeanor.

**Subd. 5. Enforcement.** With reason to believe that a corporation, limited partnership, or pension or investment fund is violating subdivision 3, the attorney general shall commence an action in the district court in which any agricultural lands relative to such violation are situated, or if situated in two or more counties, in any county in which a substantial part of the lands are situated. The attorney general shall file for record with the county recorder or the registrar of titles of each county in which any portion of said lands are located a notice of the pendency of the action as provided in section 557.02. If the court finds that the lands in question are being held in violation of subdivision 3, it shall enter an order so declaring. The attorney general shall file for record any such order with the county recorder or the registrar of titles of each county in which any portion of said lands are located. Thereafter, the pension or investment fund, limited part-

nership, or corporation owning such land shall have a period of five years from the date of such order to divest itself of such lands. The aforementioned five-year limitation period shall be deemed a covenant running with the title to the land against any pension or investment fund, limited partnership, or corporate grantee or assignee or the successor of such pension or investment fund, limited partnership, or corporation. Any lands not so divested within the time prescribed shall be sold at public sale in the manner prescribed by law for the foreclosure of a mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law.

**Subd. 6. Disposal of land.** (a) A state or federal agency, limited partnership, or a corporation may not lease or sell agricultural land or a farm homestead before offering or making a good faith effort to offer the land for sale or lease to the immediately preceding former owner at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor. The offer must be made on the notice to offer form under subdivision 7. The requirements of this subdivision do not apply to a sale or lease by a corporation that is a family farm corporation or an authorized farm corporation or to a sale or lease by the commissioner of agriculture of property acquired by the state under the family farm security program under chapter 41. This subdivision applies only to a sale or lease when the seller or lessor acquired the property by enforcing a debt against the agricultural land or farm homestead, including foreclosure of a mortgage, accepting a deed in lieu of foreclosure, terminating a contract for deed, or accepting a deed in lieu of terminating a contract for deed. Selling or leasing property to a third party at a price is prima facie evidence that the price is acceptable to the seller or lessor. The seller must provide written notice to the immediately preceding former owner that the agricultural land or farm homestead will be offered for sale at least 14 days before the agricultural land or farm homestead is offered for sale.

(b) An immediately preceding former owner is the entity with record legal title to the agricultural land or farm homestead before acquisition by the state or federal agency or corporation except: if the immediately preceding former owner is a bankruptcy estate, the debtor in bankruptcy is the immediately preceding former owner; and if the agricultural land or farm homestead was acquired by termination of a contract for deed or deed in lieu of termination of a contract for deed, the immediately preceding former owner is the purchaser under the contract for deed. For purposes of this subdivision, only a family farm, family farm corporation, or family farm partnership can be an immediately preceding former owner.

(c) An immediately preceding former owner may elect to purchase or lease the entire property or an agreed to portion of the property. If the immediately preceding former owner elects to purchase or lease a portion of the property, the election must be reported in writing to the seller or lessor prior to the time the property is first offered for sale or lease. If election is made to purchase or lease a portion of the property, the portion must be contiguous and compact so that it does not unreasonably reduce access to or the value of the remaining property.

(d) For purposes of this subdivision, the term "a price no higher than the highest price offered by a third party" means the acceptable cash price offered by a third party or the acceptable time-price offer made by a third party. A cash price offer is one that involves simultaneous transfer of title for payment of the entire amount of the offer. If the acceptable offer made by a third party is a time-price offer, the seller or lessor must make the same time-price offer or an equivalent cash offer to the immediately preceding former owner. An equivalent cash offer is equal to the total of the payments made over a period of the time-price offer discounted by yield curve of the United States treasury notes and bonds of similar maturity on the first business day of the month in which the offer is personally delivered or mailed for time periods similar to the time period covered by the time-price offer, plus 2.0 percent. A time-price offer is an offer that is financed entirely or partially by the seller and includes an offer to purchase under a contract for deed or mortgage. An equivalent cash offer is not required to be made if the state participates in an offer to a third party through the rural finance authority.



(e) This subdivision applies to a seller when the property is sold and to a lessor each time the property is leased, for the time period specified in subdivision 3, paragraph (i), after the agricultural land is acquired except:

(1) an offer to lease to the immediately preceding former owner is required only until the immediately preceding owner fails to accept an offer to lease the property or the property is sold;

(2) an offer to sell to the immediately preceding former owner is required until the property is sold; and

(3) if the immediately preceding former owner elects to lease or purchase a portion of the property, this subdivision does not apply to the seller with regard to the balance of the property after the election is made under paragraph (c).

(f) The notice of an offer under subdivision 7 that is personally delivered with a signed receipt or sent by certified mail with a receipt of mailing to the immediately preceding former owner's last known address is a good faith offer.

(g) This subdivision does not apply to a sale or lease that occurs after the seller or lessor has held the property for the time period specified in subdivision 3, paragraph (i).

(h) For purposes of this subdivision, if the immediately preceding former owner is a bankruptcy estate the debtor in the bankruptcy is the immediately preceding owner.

(i) The immediately preceding former owner must exercise the right to lease all or a portion of the agricultural land or a homestead located on agricultural land in writing within 15 days after an offer to lease under this subdivision is mailed with a receipt of mailing or personally delivered. If election is made to lease only the homestead or a portion of the agricultural land, the portion to be leased must be clearly identified in writing. The immediately preceding former owner must exercise the right to buy the agricultural land, a portion of the agricultural land, or a farm homestead located on agricultural land, in writing, within 65 days after an offer to buy under this subdivision is mailed with a receipt of mailing or is personally delivered. Within ten days after exercising the right to lease or buy by accepting the offer, the immediately preceding owner must fully perform according to the terms of the offer including paying the amounts due. A seller may sell and a lessor may lease the agricultural land or farm homestead subject to this subdivision to the third party in accordance with their lease or purchase agreement if:

(1) the immediately preceding former owner does not accept an offer to lease or buy before the offer terminates; or

(2) the immediately preceding former owner does not perform the obligations of the offer, including paying the amounts due, within ten days after accepting the offer.

(j) A certificate indicating whether or not the property contains agricultural land or a farm homestead that is signed by the county assessor where the property is located and recorded in the office of the county recorder or the registrar of titles where the property is located is prima facie evidence of whether the property is agricultural land or a farm homestead.

(k) As prima facie evidence that an offer to sell or lease agricultural land or a farm homestead has terminated, a receipt of mailing the notice under subdivision 7 and an affidavit, signed by a person authorized to act on behalf of a state, federal agency, or corporation selling or leasing the agricultural land or a farm homestead may be filed in the office of the county recorder or registrar of titles of the county where the agricultural land or farm homestead is located. The affidavit must state that:

(1) notice of an offer to buy or lease the agricultural land or farm homestead was provided to the immediately preceding former owner at a price not higher than the highest price offered by a third party that is acceptable;

(2) the time during which the immediately preceding former owner is required to exercise the right to buy or lease the agricultural land or farm homestead has expired;

(3) the immediately preceding former owner has not exercised the right to buy or

lease the agricultural land or farm homestead as provided in this subdivision or has accepted an offer and has not fully performed according to the terms of the offer; and

(4) the offer to the immediately preceding former owner has terminated.

(l) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision or to lease or purchase at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor may be extinguished or limited by an express statement signed by the immediately preceding owner that complies with the plain language requirements of section 325G.31. The right may not be extinguished or limited except by:

(1) an express statement in a deed in lieu of foreclosure of the agricultural land;

(2) an express statement in a deed in lieu of a termination of a contract for deed for the agricultural land;

(3) an express statement conveying the right to the state or federal agency or corporation owning the agricultural land that is required to make an offer under this subdivision; however, the preceding former owner may rescind the conveyance by notifying the state or federal agency or corporation in writing within 20 calendar days after signing the express statement;

(4) to cure a title defect, an express statement conveying the right may be made to a person to whom the agricultural land has been transferred by the state or federal agency or corporation; or

(5) an express statement conveying the right to a contract for deed vendee to whom the agricultural land or farm homestead was sold under a contract for deed by the immediately preceding former owner if the express statement and the contract for deed are recorded.

(m) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision may not be assigned or transferred except as provided in paragraph (l), but may be inherited.

(n) An immediately preceding former owner, except a former owner who is actively engaged in farming as defined in subdivision 2, paragraph (a), and who agrees to remain actively engaged in farming on a portion of the agricultural land or farm homestead for at least one year after accepting an offer under this subdivision, may not sell agricultural land acquired by accepting an offer under this subdivision if the arrangement of the sale was negotiated or agreed to prior to the former owner accepting the offer under this subdivision. A person who sells property in violation of this paragraph is liable for damages plus reasonable attorney fees to a person who is damaged by a sale in violation of this paragraph. There is a rebuttable presumption that a sale by an immediately preceding former owner is in violation of this paragraph if the sale takes place within 270 days of the former owner accepting the offer under this subdivision. This paragraph does not apply to a sale by an immediately preceding former owner to the owner's spouse, the owner's parents, the owner's sisters and brothers, the owner's spouse's sisters and brothers, or the owner's children.

Subd. 7. **Notice of offer.** (a) The state, a federal agency, limited partnership, or a corporation subject to subdivision 6 must provide a notice of an offer to sell or lease agricultural land substantially as follows, after inserting the appropriate terms within the parentheses:

**"NOTICE OF OFFER TO (LEASE, BUY) AGRICULTURAL LAND**

**TO:** (...Immediately preceding former owner...)

**FROM:** (...The state, federal agency, limited partnership, or corporation subject to subdivision 6...)

**DATE:** (...date notice is mailed or personally delivered...)

# MINNESOTA STATUTES 1994

(...The state, federal agency, limited partnership, or corporation...) HAS ACQUIRED THE AGRICULTURAL LAND DESCRIBED BELOW AND HAS RECEIVED AN ACCEPTABLE OFFER TO (LEASE, SELL) THE AGRICULTURAL LAND FROM ANOTHER PARTY. UNDER MINNESOTA STATUTES, SECTION 500.24, SUBDIVISION 6, AN OFFER FROM (...the state, federal agency, limited partnership, or corporation...) MUST BE MADE TO YOU AT A PRICE NO HIGHER THAN THE HIGHEST OFFER MADE BY ANOTHER PARTY.

THE AGRICULTURAL LAND BEING OFFERED CONTAINS APPROXIMATELY (...approximate number of acres...) ACRES AND IS INFORMALLY DESCRIBED AS FOLLOWS:

(Informal description of the agricultural land being offered that reasonably describes the land. This description does not need to be a legal description.)

(...The state, federal agency, limited partnership, or corporation...) OFFERS TO (SELL, LEASE) THE AGRICULTURAL LAND DESCRIBED ABOVE FOR A CASH PRICE OF \$(...cash price or equivalent cash price for lease and lease period, or cash price or equivalent cash price for sale of land...), WHICH IS NOT HIGHER THAN THE PRICE OFFERED BY ANOTHER PARTY. THE PRICE IS OFFERED ON THE FOLLOWING TERMS:

(Terms, if any, of acceptable offer)

IF YOU WANT TO ACCEPT THIS OFFER YOU MUST NOTIFY (...the state, federal agency, limited partnership, or corporation...) IN WRITING THAT YOU ACCEPT THE OFFER OR SIGN UNDERNEATH THE FOLLOWING PARAGRAPH AND RETURN A COPY OF THIS NOTICE BY (15 for a lease, 65 for a sale) DAYS AFTER THIS NOTICE IS PERSONALLY DELIVERED OR MAILED TO YOU. THE OFFER IN THIS NOTICE TERMINATES ON (...date of termination - 15 days for lease and 65 days for sale after date of mailing or personal delivery...)

### ACCEPTANCE OF OFFER

I ACCEPT THE OFFER TO (BUY, LEASE) THE AGRICULTURAL LAND DESCRIBED ABOVE AT THE PRICE OFFERED TO ME IN THIS NOTICE. AS PART OF ACCEPTING THIS OFFER I WILL PERFORM ACCORDING TO THE TERMS OF THE OFFER, INCLUDING MAKING PAYMENTS DUE UNDER THE OFFER, WITHIN TEN DAYS AFTER THE DATE I ACCEPT THIS OFFER. I UNDERSTAND THAT NEGOTIATING OR AGREEING TO AN ARRANGEMENT TO SELL THE AGRICULTURAL LAND TO ANOTHER PERSON PRIOR TO ACCEPTING THIS OFFER MAY BE A VIOLATION OF LAW AND I MAY BE LIABLE TO A PERSON DAMAGED BY THE SALE.

.....  
Signature of Former Owner Accepting Offer

.....  
Date"

### IMPORTANT NOTICE

ANY ACTION FOR THE RECOVERY OF THE AGRICULTURAL LAND DESCRIBED ABOVE OR ANY ACTION FOR DAMAGES, EXCEPT FOR DAMAGES FOR FRAUD, REGARDING THIS OFFER MUST BE COMMENCED BY A LAWSUIT BEFORE THE EXPIRATION OF THREE YEARS AFTER THIS LAND IS SOLD TO ANOTHER PARTY. UPON FILING A LAWSUIT, YOU MUST ALSO FILE A NOTICE OF LIS PENDENS WITH THE COUNTY RECORDER OR REGISTRAR OF TITLES IN THE COUNTY WHERE THE LAND IS LOCATED.

(b) For an offer to sell, a copy of the purchase agreement containing the price and terms of the highest offer made by a third party that is acceptable to the seller and a

signed affidavit by the seller affirming that the purchase agreement is true, accurate, and made in good faith must be included with the notice under this subdivision. At the seller's discretion, reference to the third party's identity may be deleted from the copy of the purchase agreement.

(c) For an offer to lease, a copy of the lease containing the price and terms of the highest offer made by a third party that is acceptable to the lessor and a signed affidavit by the lessor affirming that the lease is true, accurate, and made in good faith must be included with the notice under this subdivision. At the lessor's discretion, reference to the third party's identity may be deleted from the copy of the lease agreement.

(d) The affidavit under paragraphs (b) and (c) is subject to section 609.48.

**Subd. 8. Failure to bring action.** An action for the recovery of title to or possession of real property or any right in the property or any action for damages, except for damages for fraud, based upon a failure to comply with the requirements of subdivision 6 or 7 must be commenced, and a notice of lis pendens filed with the county recorder or registrar of titles in the county where the real property is located, within three years after the conveyance on which the action is based was recorded with the county recorder or registrar of titles.

**History:** 1973 c 427 s 1; 1975 c 324 s 1; 1976 c 181 s 2; 1976 c 239 s 123; 1978 c 722 s 1; 1980 c 497 s 3; 1981 c 173 s 1-4; 1985 c 80 s 1; 1985 c 248 s 70; 1Sp1985 c 10 s 116; 1986 c 398 art 7 s 2,3; art 20, s 1; 1986 c 444; 1Sp1986 c 2 art 2 s 13; 1987 c 396 art 2 s 1-3; 1988 c 610 s 2-9; 1988 c 700 s 1,2; 1989 c 350 art 16 s 1; 1990 c 391 art 8 s 55; 1990 c 561 s 13; 1990 c 580 s 1; 1990 c 604 art 10 s 22; 1991 c 263 s 1; 1991 c 309 s 16; 1992 c 517 art 1 s 36; 1993 c 123 s 1,2; 1994 c 622 s 2,3

#### 500.25 RIGHTS OF FARM TENANTS ON TERMINATION OF LIFE ESTATES.

**Subdivision 1. Definition.** For the purposes of this section, "farm tenancy" is a tenancy involving 40 or more acres of tillable land or crop land rented for agricultural purposes.

**Subd. 2. Continuation of tenancy.** Upon the death of a life tenant between March 2 and the following October 31, a farm tenancy granted by the life tenant shall continue until the earlier of the following March 1, the completion of harvest, or the expiration of the lease by its terms. If a life tenant dies between November 1 and the following March 1, the farm tenancy shall continue for the following crop year and shall terminate on the earlier of the March 1 following that crop year, the completion of harvest, or the expiration of the lease by its terms. However, if the lease is binding upon the remainderperson by specific commitment of the remainderperson, the lease shall terminate as provided by that commitment.

**Subd. 3. Rental value.** A remainderperson who is required by subdivision 2 to continue a tenancy shall be entitled to a rental amount equal to the prevailing fair market rental amount in the area. If the parties cannot agree on a rental amount, either party may petition the district court for a declaratory judgment setting the rental amount. The costs of the action shall be apportioned between the parties by the court.

**History:** 1981 c 370 s 1; 1986 c 444

#### 500.30 SOLAR OR WIND EASEMENTS.

**Subdivision 1.** "Solar easement" means a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in section 216C.06, subdivision 8, to solar energy.

**Subd. 1a.** "Wind easement" means a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds.

**Subd. 2.** Any property owner may grant a solar or wind easement in the same man-

ner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded, and indexed in the office of the recorder of the county in which the easement is granted. No duly recorded easement shall be unenforceable on account of lack of privity of estate or privity of contract; such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that an easement may terminate upon the conditions stated therein or pursuant to the provisions of section 500.20.

Subd. 3. Any deed, will, or other instrument that creates a solar or wind easement shall include, but the contents are not limited to:

(a) a description of the real property subject to the easement and a description of the real property benefiting from the solar or wind easement; and

(b) for solar easements, a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;

(c) a description of the vertical and horizontal angles, expressed in degrees, and distances from the site of the wind power system in which an obstruction to the winds is prohibited or limited;

(d) any terms or conditions under which the easement is granted or may be terminated;

(e) any provisions for compensation of the owner of the real property benefiting from the easement in the event of interference with the enjoyment of the easement, or compensation of the owner of the real property subject to the easement for maintaining the easement;

(f) any other provisions necessary or desirable to execute the instrument.

Subd. 4. A solar or wind easement may be enforced by injunction or proceedings in equity or other civil action.

Subd. 5. Any depreciation caused by any solar or wind easement which is imposed upon designated property, but not any appreciation caused by any easement which benefits designated property, shall be included in the net tax capacity of the property for property tax purposes.

**History:** 1978 c 786 s 21; 1981 c 356 s 248; 1982 c 563 s 16; 1987 c 312 art 1 s 10; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20