

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3265

03/21/2014 Authored by Faust and Hamilton

The bill was read for the first time and referred to the Committee on Agriculture Policy

1.1 A bill for an act
1.2 relating to agriculture; providing an exemption from the prohibition on business
1.3 farming or businesses owning or leasing farmland; amending Minnesota Statutes
1.4 2012, section 500.24, subdivisions 2, 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 500.24, subdivision 2, is amended to read:

1.7 Subd. 2. **Definitions.** The definitions in this subdivision apply to this section.

1.8 (a) "Farming" means the production of (1) agricultural products; (2) livestock or
1.9 livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It
1.10 does not include the processing, refining, or packaging of said products, nor the provision
1.11 of spraying or harvesting services by a processor or distributor of farm products. It does
1.12 not include the production of timber or forest products, the production of poultry or
1.13 poultry products, or the feeding and caring for livestock that are delivered to a corporation
1.14 for slaughter or processing for up to 20 days before slaughter or processing.

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

1.17 (c) "Family farm corporation" means a corporation founded for the purpose of
1.18 farming and the ownership of agricultural land in which the majority of the stock is held
1.19 by and the majority of the stockholders are persons, the spouses of persons, or current
1.20 beneficiaries of one or more family farm trusts in which the trustee holds stock in a family
1.21 farm corporation, related to each other within the third degree of kindred according to
1.22 the rules of the civil law, and at least one of the related persons is residing on or actively
1.23 operating the farm, and none of whose stockholders are corporations; provided that a
1.24 family farm corporation shall not cease to qualify as such hereunder by reason of any:

(1) transfer of shares of stock to a person or the spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer, or to a family farm trust of which the shareholder, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of shares of stock to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority of the current beneficiaries of the trust, or to a family farm trust of which the shareholder, spouse, or related person is a current beneficiary.

For the purposes of this section, a transfer may be made with or without consideration, either directly or indirectly, during life or at death, whether or not in trust, of the shares in the family farm corporation, and stock owned by a family farm trust are considered to be owned in equal shares by the current beneficiaries.

(d) "Family farm trust" means:

(1) a trust in which:

(i) a majority of the current beneficiaries are persons or spouses of persons who are related to each other within the third degree of kindred according to the rules of civil law;

(ii) all of the current beneficiaries are natural persons or nonprofit corporations or trusts described in the Internal Revenue Code, section 170(c), as amended, and the regulations under that section; and

(iii) one of the family member current beneficiaries is residing on or actively operating the farm; or the trust leases the agricultural land to a family farm unit, a family farm corporation, an authorized farm corporation, an authorized livestock farm corporation, a family farm limited liability company, a family farm trust, an authorized farm limited liability company, a family farm partnership, or an authorized farm partnership; or

(2) a charitable remainder trust as defined in the Internal Revenue Code, section 664, as amended, and the regulations under that section, and a charitable lead trust as set forth in the Internal Revenue Code, section 170(f), and the regulations under that section.

(e) "Authorized farm corporation" means a corporation meeting the following standards:

(1) it has no more than five shareholders, provided that for the purposes of this section, a husband and wife are considered one shareholder;

(2) all its shareholders, other than any estate, are natural persons or a family farm trust;

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

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

(5) shareholders holding 51 percent or more of the interest in the corporation reside on the farm or are actively engaging in farming;

(6) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and

(7) none of its shareholders are shareholders in other authorized farm corporations that directly or indirectly in combination with the corporation own more than 1,500 acres of agricultural land.

(f) "Authorized livestock farm corporation" means a corporation formed for the production of livestock and meeting the following standards:

(1) it is engaged in the production of livestock other than dairy cattle;

(2) all its shareholders, other than any estate, are natural persons, family farm trusts, or family farm corporations;

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

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

(5) shareholders holding 75 percent or more of the control, financial, and capital investment in the corporation are farmers, and at least 51 percent of the required percentage of farmers are actively engaged in livestock production;

(6) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and

(7) none of its shareholders are shareholders in other authorized farm corporations that directly or indirectly in combination with the corporation own more than 1,500 acres of agricultural land.

(g) "Agricultural land" means real estate used for farming or capable of being used for farming in this state.

(h) "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.

(i) "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.

(j) "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 natural persons or current beneficiaries of one or more family farm trusts in which the trustee holds an interest in a

family farm partnership 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 the farm, actively operating the farm, or the agricultural land was owned by one or more of the related persons for a period of five years before its transfer to the limited partnership, and none of the partners is a corporation. A family farm partnership does not cease to qualify as a family farm partnership because of a:

(1) transfer of a partnership interest to a person or spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer or to a family farm trust of which the partner, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of a partnership interest to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority of the current beneficiaries of the trust, or to a family farm trust of which the partner, spouse, or related person is a current beneficiary.

For the purposes of this section, a transfer may be made with or without consideration, either directly or indirectly, during life or at death, whether or not in trust, of a partnership interest in the family farm partnership, and interest owned by a family farm trust is considered to be owned in equal shares by the current beneficiaries.

(k) "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) it has no more than five partners;

(3) all its partners, other than any estate, are natural persons or family farm trusts;

(4) its revenue from rent, royalties, dividends, interest, and annuities does 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) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and

(8) none of its limited partners are limited partners in other authorized farm partnerships that directly or indirectly in combination with the partnership own more than 1,500 acres of agricultural land.

(l) "Family farm limited liability company" means a limited liability company founded for the purpose of farming and the ownership of agricultural land in which the majority of the membership interests is held by and the majority of the members are natural persons, or current beneficiaries of one or more family farm trusts in which the trustee holds an interest in a family farm limited liability company 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 the farm, actively operating the farm, or the agricultural land was owned by one or more of the related persons for a period of five years before its transfer to the limited liability company, and none of the members is a corporation or a limited liability company. A family farm limited liability company does not cease to qualify as a family farm limited liability company because of:

(1) a transfer of a membership interest to a person or spouse of a person related within the third degree of kindred according to the rules of civil law to the person making the transfer or to a family farm trust of which the member, spouse, or related person is a current beneficiary; or

(2) distribution from a family farm trust of a membership interest to a beneficiary related within the third degree of kindred according to the rules of civil law to a majority of the current beneficiaries of the trust, or to a family farm trust of which the member, spouse, or related person is a current beneficiary.

For the purposes of this section, a transfer may be made with or without consideration, either directly or indirectly, during life or at death, whether or not in trust, of a membership interest in the family farm limited liability company, and interest owned by a family farm trust is considered to be owned in equal shares by the current beneficiaries. Except for a state or federally chartered financial institution acquiring an encumbrance for the purpose of security or an interest under paragraph (x), a member of a family farm limited liability company may not transfer a membership interest, including a financial interest, to a person who is not otherwise eligible to be a member under this paragraph.

(m) "Authorized farm limited liability company" means a limited liability company meeting the following standards:

(1) it has no more than five members;

(2) all its members, other than any estate, are natural persons or family farm trusts;

(3) it does not have more than one class of membership interests;

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

(5) members holding 51 percent or more of both the governance rights and financial rights in the limited liability company reside on the farm or are actively engaged in farming;

(6) it does not, directly or indirectly, own or otherwise have an interest in any title to more than 1,500 acres of agricultural land; and

(7) none of its members are members in other authorized farm limited liability companies that directly or indirectly in combination with the authorized farm limited liability company own more than 1,500 acres of agricultural land.

Except for a state or federally chartered financial institution acquiring an encumbrance for the purpose of security or an interest under paragraph (x), a member of an authorized farm limited liability company may not transfer a membership interest, including a financial interest, to a person who is not otherwise eligible to be a member under this paragraph.

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

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

(p) "Research or experimental farm" means a corporation, limited partnership, pension, investment fund, or limited liability company that owns or operates agricultural land for research or experimental purposes, provided that any commercial sales from the operation are incidental to the research or experimental objectives of the corporation. A corporation, limited partnership, limited liability company, or pension or investment fund seeking initial approval by the commissioner to operate agricultural land for research or experimental purposes must first 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.

(q) "Breeding stock farm" means a corporation, limited partnership, or limited liability company, that owns or operates agricultural land for the purpose of raising breeding stock, including embryos, for resale to farmers or 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 paragraph that does not qualify as 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.

(r) "Aquatic farm" means a corporation, limited partnership, or limited liability company, that owns or leases agricultural land as a necessary part of an aquatic farm as defined in section 17.47, subdivision 3.

(s) "Religious farm" means a corporation formed primarily for religious purposes whose sole income is derived from agriculture.

(t) "Utility corporation" means a corporation regulated under Minnesota Statutes 1974, chapter 216B, that owns agricultural land for purposes described in that chapter, or an electric generation or transmission cooperative that owns agricultural land for use in its business if the land is not used for farming except under lease to a family farm unit, a family farm corporation, a family farm trust, a family farm partnership, or a family farm limited liability company.

(u) "Development organization" means a corporation, limited partnership, limited liability company, or pension or investment fund that has an interest in agricultural land for which the corporation, limited partnership, limited liability company, or pension or investment fund 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 nonagricultural, or if the land is located within an incorporated area. A corporation, limited partnership, limited liability company, or pension or investment fund may hold agricultural land in the amount necessary for its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, the land may not be used for farming except under lease to a family farm unit, a family farm corporation, a family farm trust, an authorized farm corporation, an authorized livestock farm corporation, a family farm partnership, an authorized farm partnership, a family farm limited liability company, or an authorized farm limited liability company, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation that has entered into an agreement with the United States under 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.

(v) "Exempt land" means agricultural land owned or leased by a corporation as of May 20, 1973, agricultural land owned or leased by a pension or investment fund as of May 12, 1981, agricultural land owned or leased by a limited partnership as of May 1, 1988, or agricultural land owned or leased by a trust as of the effective date of Laws 2000,

chapter 477, including the normal expansion of that ownership at a rate not to exceed 20 percent of the amount of land owned as of May 20, 1973, for a corporation; May 12, 1981, for a pension or investment fund; May 1, 1988, for a limited partnership, or the effective date of Laws 2000, chapter 477, for a trust, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules. A corporation, limited partnership, or pension or investment fund that is eligible to own or lease agricultural land under this section prior to May 1997, or a corporation that is eligible to own or lease agricultural land as a benevolent trust under this section prior to the effective date of Laws 2000, chapter 477, may continue to own or lease agricultural land subject to the same conditions and limitations as previously allowed.

(w) "Gifted land" means agricultural land acquired as a gift, either by grant or devise, by an educational, religious, or charitable nonprofit corporation, limited partnership, limited liability company, or pension or investment fund if all land so acquired is disposed of within ten years after acquiring the title.

(x) "Reposessed land" means agricultural land acquired by a corporation, limited partnership, limited liability company, or pension or investment fund by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim on the land, whether created by mortgage or otherwise if all land so acquired is disposed of within five years after acquiring the title. The five-year limitation is a covenant running with the title to the land against any grantee, assignee, or successor of the pension or investment fund, corporation, limited partnership, or limited liability company. The land so acquired must not be used for farming during the five-year period, except under a lease to a family farm unit, a family farm corporation, a family farm trust, an authorized farm corporation, an authorized livestock farm corporation, a family farm partnership, an authorized farm partnership, a family farm limited liability company, or an authorized farm limited liability company. Notwithstanding the five-year divestiture requirement under this paragraph, a financial institution may continue to own the agricultural land if the agricultural land is leased to the immediately preceding former owner, but must dispose of the agricultural land within ten years of acquiring the title. Livestock acquired by a pension or investment fund, corporation, limited partnership, or limited liability company 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 earlier.

(y) "Commissioner" means the commissioner of agriculture.

(z) "Nonprofit corporation" means a nonprofit corporation organized under state nonprofit corporation or trust law or qualified for tax-exempt status under federal tax law that: (1) uses the land for a specific nonfarming purpose; (2) leases the agricultural land to a family farm unit, a family farm corporation, an authorized farm corporation, an authorized livestock farm corporation, a family farm limited liability company, a family farm trust, an authorized farm limited liability company, a family farm partnership, or an authorized farm partnership; or (3) actively farms less than 160 acres that were acquired by the nonprofit corporation prior to August 1, 2010, or actively farms less than 40 acres that were acquired by the nonprofit corporation after August 1, 2010, and the nonprofit corporation uses all profits from the agricultural land for educational purposes.

(aa) "Current beneficiary" means a person who at any time during a year is entitled to, or at the discretion of any person may, receive a distribution from the income or principal of the trust. It does not include a distributee trust, other than a trust described in section 170(c) of the Internal Revenue Code, as amended, but does include the current beneficiaries of the distributee trust. It does not include a person in whose favor a power of appointment could be exercised until the holder of the power of appointment actually exercises the power of appointment in that person's favor. It does not include a person who is entitled to receive a distribution only after a specified time or upon the occurrence of a specified event until the time or occurrence of the event. For the purposes of this section, a distributee trust is a current beneficiary of a family farm trust.

(bb) "De minimis" means that any corporation, pension or investment fund, limited liability company, or limited partnership that directly or indirectly owns, acquires, or otherwise obtains any interest in 40 acres or less of agricultural land and annually receives less than \$150 per acre in gross revenue from rental or agricultural production.

(cc) "Biomedical agricultural entity" means an entity that raises or sells livestock exclusively for biomedical or scientific use and that does not sell livestock for human consumption.

Sec. 2. Minnesota Statutes 2012, section 500.24, subdivision 3, is amended to read:

Subd. 3. **Farming and ownership of agricultural land by corporations restricted.** (a) No corporation, limited liability company, pension or investment fund, trust, or limited partnership shall engage in farming; nor shall any corporation, limited liability company, pension or investment fund, trust, or limited partnership, directly or indirectly, own, acquire, or otherwise obtain any interest, in agricultural land other than a bona fide encumbrance taken for purposes of security. This subdivision does not apply to general partnerships. This subdivision does not apply to any agricultural land, corporation,

10.1 limited partnership, trust, limited liability company, or pension or investment fund that
10.2 meet any of the definitions in subdivision 2, paragraphs (b) to (f), (j) to (m), (p) to (x),
10.3 (z), ~~and (bb)~~, and (cc), has a conservation plan prepared for the agricultural land, and
10.4 reports as required under subdivision 4.

10.5 (b) A corporation, pension or investment fund, trust, limited liability company, or
10.6 limited partnership that cannot meet any of the definitions in subdivision 2, paragraphs
10.7 (b) to (f), (j) to (m), (p) to (x), (z), ~~and (bb)~~, and (cc), may petition the commissioner for
10.8 an exemption from this subdivision. The commissioner may issue an exemption if the
10.9 entity meets the following criteria:

10.10 (1) the exemption would not contradict the purpose of this section; and

10.11 (2) the petitioning entity would not have a significant impact upon the agriculture
10.12 industry and the economy.

10.13 The commissioner shall review annually each entity that is issued an exemption
10.14 under this paragraph to ensure that the entity continues to meet the criteria in clauses
10.15 (1) and (2). If an entity fails to meet the criteria, the commissioner shall withdraw the
10.16 exemption and the entity is subject to enforcement proceedings under subdivision 5. The
10.17 commissioner shall submit a report with a list of each entity that is issued an exemption
10.18 under this paragraph to the chairs of the senate and house of representatives agricultural
10.19 policy committees by October 1 of each year.