

PART II
PRIVATE RIGHTS

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.

[R. L. s. 3191] (8032)

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.

[R. L. s. 3192] (8033)

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.

[R. L. s. 3193] (8034)

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, his 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.

[R. L. s. 3194] (8035)

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 his death it shall be deemed a chattel real.

[R. L. ss. 3195, 3196] (8036, 8037)

500.06 DIVISION AS TO TIME. Estates, as respects the time of their enjoyment, are divided into estates in possession and estates in expectancy.

[R. L. s. 3197] (8038)

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.

[R. L. s. 3197] (8038)

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.

[R. L. ss. 3198, 3231] (8039, 8072)

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

[R. L. s. 3201] (8042)

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.

[R. L. s. 3199] (8040)

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 law.

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.

[R. L. ss. 3200, 3213, 3216, 3218] (8041, 8054, 8057, 8059)

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.

[R. L. s. 3202; 1943 c. 69 s. 1] (8043)

500.13 FUTURE ESTATES; RESTRICTIONS ON CREATION. Subdivision 1. **Effect of suspension of power of alienation.** Every future estate is void in its creation, which suspends the absolute power of alienation for a longer period than is prescribed in this chapter; such power of alienation is suspended when there are no persons in being by whom an absolute fee in possession can be conveyed.

Subd. 2. **Limit of suspension; exception.** The absolute power of alienation shall not be suspended, by any limitation or condition, for a longer period than during the continuance of two lives in being at the creation of the estate, except that a contingent remainder in fee may be created on a prior remainder in fee, to take effect in the event that the persons to whom the first remainder is limited die under the age of 18 years, or upon any other contingency by which the estate of such persons may be determined before they attain their full age.

Subds. 3, 4, 5, 6. [Repealed, 1947 c 207 s 1]

Subd. 7. **Application of restrictions to chattels real.** All provisions of this chapter relative to future estates apply to limitations of chattels real as well as freehold estates, so that the absolute power of alienation of a term of years shall not be suspended for a longer period than the absolute power of alienation can be suspended in respect to a fee.

[R. L. s. 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3212; 1947 c 207 s 2; 1973 c 725 s 71] (8044, 8045, 8046, 8047, 8048, 8049, 8050, 8051, 8053)

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 his 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 remaindermen. 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.

[*R. L. ss. 3211, 3214, 3215, 3217, 3219, 3220; 1939 c. 90; 1939 c. 378*] (8052-1, 8055, 8056, 8058, 8060, 8061)

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 disseizen, 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.

[*R. L. ss. 3221, 3222, 3223*] (8062, 8063, 8064)

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.

[*R. L. s. 3224; 1937 c. 487 s. 2*] (8065)

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, rents and profits from real estate may be accumulated to the same extent and for the same period permitted by law for the accumulation of income from personal property. This section shall not be deemed to extend the period during which the power of alienation may be suspended under the provisions of section 500.13. 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.

[R L s 3225, 3226, 3227, 3228, 3229; 1953 c 424 s 1; 1965 c 682 s 1] (8066, 8067, 8068, 8069, 8070)

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.

[R. L. s. 3230] (8071)

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 common; 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 section shall not apply to mortgages, nor to devises or grants made in trust, or to executors.

[R. L. ss. 3232, 3233] (8073, 8074)

500.20 DEFEASIBLE ESTATES. Subdivision 1. **Nominal conditions and limitations.** When any conditions 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. Restriction of duration of condition. All covenants, conditions, or restrictions hereafter created by any other means, by which the title or use of real property is affected, shall 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 after such period of time they may be wholly disregarded.

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.

[R. L. s. 3234; 1937 c. 487 s. 1] (8075)

NOTE: See Marketable Title Act, Section 541.023.

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.

[1937 c. 487 s. 3] (8075-1)

500.22 RESTRICTIONS ON ACQUISITION OF TITLE. Subdivision 1. **By aliens and non-American corporations.** Except as hereinafter provided, no person, unless he be a citizen of the United States or has declared his intention to become a citizen, and no corporation, unless created by or under the laws of the United States or of some state thereof, shall hereafter acquire lands, or any interest therein, exceeding 90,000 square feet, except such as have been or may be acquired by devise or inheritance, or by a distribution to stockholders of any assets of a corporation upon dissolution of the corporation or otherwise, and such as may be held as security for indebtedness. The provisions of this section shall not apply to actual settlers upon farms of not more than 160 acres, or to citizens or subjects of a foreign country whose rights to hold land are secured by treaty.

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

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

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

[R L s 3235, 3236, 3237, 3238, 3239; 1907 c 439; 1911 c 130 s 1; 1945 c 280 s 1; 1947 c 153 s 1; 1953 c 218 s 1; 1959 c 495 s 1, 2] (8076, 8077, 8078, 8079, 8080)

CORPORATE USE OF AGRICULTURAL LANDS

500.23 [Repealed, 1973 c 427 s 2]

500.24 CORPORATE FARMING. Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings here given them:

(a) "Farming" means the cultivation of land for the production of (1) agricultural crops; (2) livestock or livestock products; (3) poultry or poultry products; (4) milk or dairy products; or (5) fruit or other horticultural products. It shall not include the production of timber or forest products; nor shall it include a contract whereby a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

(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 members of a family related to each other within the third degree of kindred according to the rules of the civil law, and at least one of whose stockholders is a person 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:

- (1) Its shareholders do not exceed ten in number;
- (2) All its shareholders, other than any estate are natural persons;
- (3) It does not have more than one class of shares; and
- (4) Its revenues from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts.

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

Subd. 2. Farming and ownership of agricultural land by corporations restricted. After May 20, 1973, no corporation shall engage in farming; nor shall any corporation, 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. Provided, however, that the restrictions provided in this subdivision shall not apply to the following:

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

(b) A family farm corporation or an authorized farm corporation as defined in subdivision 1;

(c) Agricultural land and land capable of being used for farming owned by a corporation as of May 20, 1973 including the normal expansion of such ownership at a rate not to exceed 20 percent, measured in acres, in any five year period, and including additional ownership reasonably necessary to meet the requirements of pollution control regulations;

(d) A farm operated for research or experimental purposes, provided that any commercial sales from such farm shall be incidental to the research or experimental objectives of the corporation;

(e) Agricultural land operated by a corporation 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;

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

(g) Future interests, including but not limited to remainder interests following life estates, when acquired as a gift (either by grant or a devise) by an educational, or religious or charitable non-profit corporation;

(h) Agricultural land acquired by a corporation other than a family farm corporation or authorized farm corporation, as defined in subdivision 1, for immediate or potential use in nonfarming purposes. A corporation 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 corporation or an authorized farm corporation, 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, 42 U.S.C. 3901-3914) as amended, or a subsidiary or assign of such a corporation; or

(i) Agricultural lands acquired by a corporation 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 thereto, and further provided that the land so acquired shall not be used for farming during the ten year period except under a lease to a family farm unit, a family farm corporation or an authorized farm corporation. The aforementioned ten year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee or assignee or the successor of such corporation.

Subd. 3. Reports. (a) Every corporation 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:

(1) The name of the corporation and its place of incorporation;

(2) The address 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, the address of its principal office in its place of incorporation;

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

(4) The names and addresses of the officers and the members of the board of directors of the corporation.

The report of a corporation seeking to qualify hereunder as a family farm corporation or an authorized farm corporation shall contain the following additional information: The number of shares 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; the name, address and number of shares owned by each shareholder; and a statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest and annuities. No corporation shall commence farming in this state until the commission of agriculture has

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inspected the report and certified that its proposed operations comply with the provisions of this section.

(b) Every corporation engaged in farming in this state 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 such year.

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

Subd. 4. Enforcement. If the attorney general has reason to believe that a corporation is violating this section, he 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 register of deeds 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 this section, it shall enter an order so declaring. The attorney general shall file for record any such order with the register of deeds or the registrar of titles of each county in which any portion of said lands are located. Thereafter, the 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 corporate grantee or assignee or the successor of such 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.

[1973 c 427 s 1]