

## 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.

**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 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.

**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 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.

Subd. 3. [Repealed, 1947 c 207 s 1]

Subd. 4. [Repealed, 1947 c 207 s 1]

Subd. 5. [Repealed, 1947 c 207 s 1]

Subd. 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.

**History:** (8044, 8045, 8046, 8047, 8048, 8049, 8050, 8051, 8053) *RL s 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3212; 1947 c 207 s 2; 1973 c 725 s 71*

#### 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 disseizin, 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, 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.

**History:** (8066, 8067, 8068, 8069, 8070) *RL s 3225, 3226, 3227, 3228, 3229; 1953 c 424 s 1; 1965 c 682 s 1*

## 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 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 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. **Converting estates.** An owner of an interest in real estate may convey the interest directly to that owner and one or more other persons as joint tenants.

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.

**History:** (8073, 8074) *RL s 3232, 3233; 1979 c 123 s 1-4; 1986 c 444*

**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. 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*

**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; or

(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.

**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

## CORPORATE USE OF AGRICULTURAL LANDS

**500.23** [Repealed, 1973 c 427 s 2]



**500.24 CORPORATE 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:

- (1) Its shareholders do not exceed five 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; and
- (5) Shareholders holding a majority of the shares must be residing on the farm or actively engaging in farming.

(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.

Subd. 3. **Farming and ownership of agricultural land by corporations restricted.** No corporation or pension or investment fund shall engage in farming; nor shall any corporation or pension or investment fund, 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 2;

(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, 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, including embryos, 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 of the amount of land leased as of May 20, 1973 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; provided that all lands so acquired by a pension or investment fund, and all lands so acquired by a corporation 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, for which the corporation 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 pension or investment fund or 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, 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 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 pension or investment fund or corporate grantee or assignee or the successor of such pension or investment fund or corporation;

(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, or a family farm corporation;

(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 subdivision 3 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.

**Subd. 3a. Lease agreement; conservation practice protection clause.** A corporation, other than a family farm corporation or an authorized farm corporation, when leasing farm land to a family farm unit, a family farm corporation, or an authorized farm corporation 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, other than a family farm corporation or an authorized farm corporation, during the period of time it holds agricultural land under subdivision 3, clause (i), intentionally destroys a conservation practice as defined in section 40.19, subdivision 5, to which the state has made a financial contribution, the corporation 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) Every pension or investment fund or corporation which 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:

(1) The name of the pension or investment fund or corporation and its place of incorporation;

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

(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 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 10 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

(5) The farm products which the pension or investment fund or corporation produces or intends to produce on its agricultural land.

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 or their spouses; 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 pension or investment fund 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 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.

(c) 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 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 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 or corporate grantee or assignee or the successor of such pension or investment fund 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 state or federal agency or a corporation, other than a family farm corporation or an authorized farm corporation, when leasing or selling farm land or a farm homestead, must offer or make a good faith effort to offer 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. An offer to lease to the former owner is required only on the first occasion on which the property is leased. An offer to sell to the former owner is required only on the first occasion on which the property is sold. An offer delivered by certified mail to the former owner's last known address is a good faith offer. This subdivision does not apply to a sale or lease that occurs after the seller or lessor has held the property for five years.

The former owner must exercise the right to lease farm land within ten days after

receiving an offer to lease under this subdivision. The former owner must exercise the right to buy farm land within 60 days after receiving an offer to buy under this subdivision. This subdivision does not apply if the former owner is a bankruptcy estate.

**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

#### 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 116J.06, subdivision 9, 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 manner 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;

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(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 valuation of the property for property tax purposes.

**History:** 1978 c 786 s 21; 1981 c 356 s 248; 1982 c 563 s 16