

CHAPTER 500

ESTATES IN REAL PROPERTY

500.20 Defeasible estates.

500.245 Right of first refusal for agricultural

500.24 Corporate and partnership farming.

land.

500.20 DEFEASIBLE ESTATES.*[For text of subd 1, see M.S.1998]*

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

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

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

(2) that were created before August 1, 1959, under which a person who owns or has an interest in real property against which the covenants, conditions, or restrictions have been filed claims a benefit of the covenant, condition, or restriction if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located, on or before March 30, 1989, a notice sworn to by the claimant or the claimant's agent or attorney: setting forth the name of the claimant; describing the real estate affected; describing the deed, instrument, or will creating the covenant, condition, or restriction; and stating that the covenant, condition, or restriction is not nominal and may not be disregarded under subdivision 1;

(3) that are created by the declaration, bylaws, floor plans, or condominium plat of a condominium created before August 1, 1980, under chapter 515, or created on or after August 1, 1980, under chapter 515A or 515B, or by any amendments of the declaration, bylaws, floor plans, or condominium plat;

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

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

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

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

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

A notice filed in accordance with clause (2) or (7) delays application of this subdivision to the covenants, conditions, or restrictions for a period ending on the later of seven years after the date of filing of the notice, or until final judgment is entered in an action to determine the validity of the covenants, conditions, or restrictions, provided in the case of an action the summons and complaint must be served and a notice of lis pendens must be recorded in the

office of the county recorder or filed in the office of the registrar of titles in each county in which the real estate affected is located within seven years after the date of recording or filing of the notice under clause (2) or (7).

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

[For text of subd 3, see M.S.1998]

History: 1999 c H art 3 s 18

500.24 CORPORATE AND PARTNERSHIP FARMING.

[For text of subd 1, see M.S.1998]

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

(a) "Farming" means the production of (1) agricultural products; (2) livestock or live-stock 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, the production of poultry or poultry products, or the feeding and caring for livestock that are delivered to a corporation for slaughter or processing for up to 20 days before slaughter or processing.

(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) it has no more than five shareholders;
- (2) all its shareholders, other than any estate, are natural persons;
- (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.

(e) "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 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 residing in Minnesota 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.

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

(g) "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.

(h) "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.

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

(j) "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) no more than five partners;

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

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

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

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

(7) 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.

(k) "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.

(l) "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.

(m) "Research or experimental farm" means a corporation, limited partnership, or pension or investment fund 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, 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 pro-

spectus or proposal of the intended method of operation containing information required by the commissioner including a copy of any operational contract with individual participants.

(n) "Breeding stock farm" means a corporation or limited partnership that owns 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.

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

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

(q) "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, or a family farm partnership.

(r) "Benevolent trust" means a pension fund or family trust established by the owners of a family farm, authorized farm corporation, authorized livestock farm corporation, or family farm corporation that holds an interest in title to agricultural land on which one or more of those owners or shareholders have resided or have been actively engaged in farming as required by paragraph (b), (c), (d), or (e).

(s) "Development organization" means a corporation, limited partnership, or pension or investment fund that owns agricultural land for which the corporation, limited partnership, 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, 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, an authorized farm corporation, an authorized livestock farm corporation, a family farm partnership, or an authorized farm partnership, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation 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.

(t) "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, or agricultural land owned or leased by a limited partnership as of May 1, 1988, 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; or May 1, 1988, for a limited partnership, 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 may continue to own or lease agricultural land subject to the same conditions and limitations as previously allowed.

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

(v) "Repossessed land" means agricultural land acquired by a corporation, limited partnership, 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, or limited partnership. 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, an authorized farm corporation, an authorized livestock farm corporation, a family farm partnership, or an authorized farm partnership. 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, or limited partnership in the collection of debts, or by a procedure for the enforcement of lien or claim on the livestock whether created by security agreement or otherwise after August 1, 1994, must be sold or disposed of within one full production cycle for the type of livestock acquired or 18 months after the livestock is acquired, whichever is later.

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

(x) "Demonstration corporation" means a nonprofit corporation organized under state nonprofit corporation law and formed primarily for the purpose of demonstrating historical farming practices.

Subd. 3. Farming and ownership of agricultural land by corporations restricted. No corporation, limited liability company, pension or investment fund, or limited partnership shall engage in farming; nor shall any corporation, limited liability company, pension or investment fund, or limited partnership, directly or indirectly, own, acquire, or otherwise obtain 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, limited partnership, or pension or investment fund that meet any of the definitions in subdivision 2, paragraphs (b) to (e), (i), (j), (m) to (v), and (x); has a conservation plan prepared for the agricultural land, and reports as required under subdivision 4.

[For text of subs. 3a to 5, see M.S.1998]

History: 1999 c 231 s 187,188

500.245 RIGHT OF FIRST REFUSAL FOR AGRICULTURAL LAND.

Subdivision 1. Disposal of land. (a) A state or federal agency, limited partnership, or a corporation may not lease or sell agricultural land or a farm homestead before offering or making a good faith effort to offer the land for sale or lease to the immediately preceding former owner at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor. The offer must be made on the notice to offer form under subdivision 2. The requirements of this subdivision do not apply to a sale or lease by a corporation that is a family farm corporation or an authorized farm corporation or to a sale or lease by the commissioner of agriculture of property acquired by the state under the family farm security program under chapter 41. This subdivision applies only to a sale or lease when the seller or lessor acquired the property by enforcing a debt against the agricultural land or farm homestead, including foreclosure of a mortgage, accepting a deed in lieu of foreclosure, terminating a contract for deed, or accepting a deed in lieu of terminating a contract for deed. Selling or leasing property to a third party at a price is prima facie evidence that the price is acceptable to the seller or lessor. The seller must provide written notice to the immediately preceding former owner that the agricultural land or farm homestead will be offered for sale at least 14 days before the agricultural land or farm homestead is offered for sale.

(b) An immediately preceding former owner is the entity with record legal title to the agricultural land or farm homestead before acquisition by the state or federal agency or corporation except: if the immediately preceding former owner is a bankruptcy estate, the debtor in bankruptcy is the immediately preceding former owner; and if the agricultural land or

farm homestead was acquired by termination of a contract for deed or deed in lieu of termination of a contract for deed, the immediately preceding former owner is the purchaser under the contract for deed. For purposes of this subdivision, only a family farm, family farm corporation, or family farm partnership can be an immediately preceding former owner.

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

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

(e) This subdivision applies to a seller when the property is sold and to a lessor each time the property is leased, for the time period specified in section 500.24, subdivision 2, paragraph (v), after the agricultural land is acquired except:

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

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

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

(f) The notice of an offer under subdivision 2 that is personally delivered with a signed receipt or sent by certified mail with a receipt of mailing to the immediately preceding former owner's last known address is a good faith offer.

(g) This subdivision does not apply to a sale or lease that occurs after the seller or lessor has held the property for the time period specified in section 500.24, subdivision 2, paragraph (v).

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

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

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

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

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

(k) As prima facie evidence that an offer to sell or lease agricultural land or a farm homestead has terminated, a receipt of mailing the notice under subdivision 2 and an affidavit, signed by a person authorized to act on behalf of a state, federal agency, or corporation selling or leasing the agricultural land or a farm homestead may be filed in the office of the county recorder or registrar of titles of the county where the agricultural land or farm homestead is located. The affidavit must state that:

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

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

(3) the immediately preceding former owner has not exercised the right to buy or lease the agricultural land or farm homestead as provided in this subdivision or has accepted an offer and has not fully performed according to the terms of the offer; and

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

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

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

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

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

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

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

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

(n) An immediately preceding former owner, except a former owner who is actively engaged in farming as defined in section 500.24, subdivision 2, paragraph (a), and who agrees to remain actively engaged in farming on a portion of the agricultural land or farm homestead for at least one year after accepting an offer under this subdivision, may not sell agricultural land acquired by accepting an offer under this subdivision if the arrangement of the sale was negotiated or agreed to prior to the former owner accepting the offer under this subdivision. A person who sells property in violation of this paragraph is liable for damages plus reasonable attorney fees to a person who is damaged by a sale in violation of this paragraph. There is a rebuttable presumption that a sale by an immediately preceding former owner is in viola-

tion of this paragraph if the sale takes place within 270 days of the former owner accepting the offer under this subdivision. This paragraph does not apply to a sale by an immediately preceding former owner to the owner's spouse, the owner's parents, the owner's sisters and brothers, the owner's spouse's sisters and brothers, or the owner's children.

[For text of subs 2 and 3, see M.S.1998]

History: 1999 c 86 art 1 s 75