

CORPORATE OR PARTNERSHIP FARMING

Footnotes

Life insurance company or association is a corporation for purposes of this chapter; § 511.8A

This chapter not enacted as a part of this title; transferred from chapter 172C in Code 1993

9H.1 Definitions.

For the purposes of this chapter:

1. "*Actively engaged in farming*" means that a natural person who is a shareholder and an officer, director or employee of the corporation or who is a member or manager of the limited liability company either:

a. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or

b. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation; or

c. Performs physical work which significantly contributes to crop or livestock production.

2. "*Agricultural land*" means land suitable for use in farming.

3. "*Authorized farm corporation*" means a corporation other than a family farm corporation founded for the purpose of farming and the ownership of agricultural land in which:

a. The stockholders do not exceed twenty-five in number; and

b. The stockholders are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.

4. "*Authorized limited liability company*" means a limited liability company other than a family farm limited liability company founded for the purpose of farming and the ownership of agricultural land in which all of the following apply:

a. The members do not exceed twenty-five in number.

b. The members are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.

5. "*Authorized trust*" means a trust other than a family trust in which:

a. The beneficiaries do not exceed twenty-five in number; and

b. The beneficiaries are all natural persons, who are not acting as a trustee or in a similar capacity for a trust as defined in subsection 22 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and

c. Its income is not exempt from taxation under the laws of either the United States or the state of Iowa.

6. "*Beneficial ownership*" includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation, limited liability company, or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation, limited liability company, or trust.

7. "*Corporation*" means a domestic or foreign corporation subject to chapter 490, a nonprofit corporation, or a cooperative.

8. "*Family farm corporation*" means a corporation:

a. 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 related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related;

b. All of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts as defined in subsection 11 of this section; and

c. Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming.

9. "*Family farm limited liability company*" means a limited liability company which meets all of the following conditions:

a. The limited liability company is founded for the purpose of farming and the ownership of agricultural land in which the majority of the members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

b. All of the members of the limited liability company are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

c. Sixty percent of the gross revenues of the limited liability company over the last consecutive three-year period comes from farming.

10. "*Family farm limited partnership*" means a limited partnership which meets all of the following conditions:

a. The limited partnership is formed for the purpose of farming and the ownership of agricultural land in which the general partner and a majority of the partnership interest is held by and the majority of limited partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

b. The general partner manages and supervises the day-to-day farming operations on the agricultural land.

c. All of the limited partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

d. Sixty percent of the gross revenues of the partnership over the last consecutive three-year period comes from farming.

11. "*Family trust*" means a trust:

a. In which a majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and

b. In which all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, as defined in subsection 22 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and

c. If the trust is established on or after July 1, 1988, the trust must be established for the purpose of farming and sixty percent of the gross revenues of the trust over the last consecutive three-year period must come from farming.

12. "*Farming*" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming shall not include the production of timber, forest products, nursery products, or sod and farming shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

13. "*Fiduciary capacity*" means an undertaking to act as executor, administrator, personal representative, guardian, conservator or receiver.

14. "*Grantor*" means a natural person, other than a nonresident alien as defined under this section, who is the creator of a revocable trust or a trust.

15. "*Indirect*" means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

16. "*Limited liability company*" means a limited liability company as defined in section 490A.102.

17. "*Limited partnership*" means a limited partnership as defined in section 488.102, or a limited liability limited partnership under chapter 488, which owns or leases agricultural land or is engaged in farming.

18. "*Nonprofit corporation*" means:

a. Corporations organized under the provisions of chapter 504, Code 1989, or current chapter 504; or

b. Corporations which qualify under Title 26, section 501(c)(3) of the United States Code.

19. "*Nonresident alien*" means:

a. An individual who is not a citizen of the United States and who is not domiciled in the United States.

b. A corporation incorporated under the law of any foreign country.

c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

f. A limited liability company organized in the United States or elsewhere, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

20. "*Revocable trust*" means a trust which provides that the grantor retains the power to amend, modify, or revoke the trust at any time prior to the death of the grantor, regardless of whether, subsequent to the execution of the revocable trust and at any time prior to death, the grantor is legally competent to exercise the power to amend, modify, or revoke the trust and regardless of when the trust is created.

21. "*Testamentary trust*" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Iowa probate code as provided in chapter 633A. Testamentary trust includes a revocable trust that has not been revoked prior to the grantor's death.

22. "*Trust*" means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. Trust does not include a person acting in a fiduciary capacity, as defined in subsection 13, or a revocable trust. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney in fact, and in any similar capacity.

[C77, 79, 81, § 172C.1; 82 Acts, ch 1103, § 1108]

84 Acts, ch 1219, § 6; 88 Acts, ch 1191, § 1, 2; 91 Acts, ch 172, § 2; 92 Acts, ch 1151, § 24

C93, § 9H.1

93 Acts, ch 39, §14; 94 Acts, ch 1153, §13; 99 Acts, ch 169, § 1; 2000 Acts, ch 1024, §1; 2000 Acts, ch 1048, §1, 3; 2002 Acts, ch 1095, §13, 1012; 2003 Acts, ch 108, § 1, 2; 2003 Acts, ch 115, § 11, 16, 19; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §350, 351, 394, 400; 2005 Acts, ch 38, § 55

Former subsections 6, 813, 22, 2729, 31, and 32 transferred to §202B.102 in Code Supplement 2003 pursuant to directive in 2003 Acts, ch 115, §16, 19

New subsection 26A, enacted in 2003 Acts, ch 115, §1, transferred to §202B.102 in Code Supplement 2003 pursuant to directive in 2003 Acts, ch 115, §16, 19

2004 amendment to subsection 17 takes effect January 1, 2006; 2004 Acts, ch 1175, §351, 400

9H.2 Prohibited operations and activities exceptions. Transferred to § 202B.101, 202B.201, or 202B.202; 2003 Acts, ch 115, § 16, 19.

9H.2A Compliance requirements. Transferred to § 202B.202; 2003 Acts, ch 115, § 16, 19.

9H.3 Penalties injunctive relief. Transferred to § 202B.401; 2003 Acts, ch 115, § 16, 19.

9H.3A Penalties injunctive relief.

The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

2003 Acts, ch 115, §12, 19

9H.4 Restriction on increase of holdings exceptions penalty.

A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust, revocable trust, or testamentary trust shall not, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. However, the restrictions provided in this section shall not apply to the following:

1. A bona fide encumbrance taken for purposes of security.
2. Agricultural land acquired for research or experimental purposes. Agricultural land is used for research or experimental purposes if any of the following apply:
 - a. Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation or limited liability company. Commercial sales are incidental to the research or experimental purposes of the corporation or limited liability company when such sales are less than twenty-five percent of the gross sales of the primary product of the research.
 - b. The agricultural land is used for the primary purpose of testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock. Grain which is not sold as seed stock is an incidental sale and must be less than twenty-five percent of the gross sales of the primary product of the research and experimental activities.
 - c. The agricultural land is used by a corporation or limited liability company, including any trade or business which is under common control, as provided in 26 U.S.C. § 414 for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after July 1, 1989, to qualify under this paragraph, the following conditions must be satisfied:
 - (1) The corporation or limited liability company must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. The corporation or limited liability company shall not renew a lease. The corporation or limited liability company shall not enter into a lease under this paragraph, if the corporation or limited liability company has ever entered into another lease under this paragraph "c", whether or not the lease is in effect. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or current chapter 504.
 - (2) A term or condition of sale, including resale, of breeding stock must not relate to the direct or indirect control by the corporation or limited liability company of the breeding stock or breeding stock progeny subsequent to the sale.
 - (3) The number of acres of agricultural land held by the corporation or limited liability company must not exceed six hundred forty acres.
 - (4) The corporation or limited liability company must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or current chapter 504.

Culls and test animals may be sold under this paragraph "c". For a three-year period beginning on the date that the corporation or limited liability company acquires an interest in the agricultural land, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three-year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less.

3. Agricultural land, including leasehold interests, acquired by a nonprofit corporation organized under the provisions of chapter 504, Code 1989, and current chapter 504 including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporations organized specifically for research, experimental, demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.
4. Agricultural land acquired by a corporation or limited liability company for immediate or potential use in nonfarming purposes.
5. Agricultural land acquired by a corporation or limited liability company by process of law in the collection of debts, or pursuant to a contract for deed executed prior to August 15, 1975, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.
6. A municipal corporation.
7. Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as trustee for a family trust, authorized trust or testamentary trust or for nonprofit corporations.
8. A corporation or its subsidiary organized under chapter 490 or a limited liability company organized under chapter 490A and to which section 312.8 is applicable.
9. Agricultural land held or leased by a corporation on July 1, 1975, as long as the corporation holding or leasing the land on this date continues to hold or lease such agricultural land.
10. Agricultural land held or leased by a trust on July 1, 1977, as long as the trust holding or leasing such land on this date continues to hold or lease such agricultural land.
11. Agricultural land acquired by a trust for immediate use in nonfarming purposes.

A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust, revocable trust, or testamentary trust, violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

[C77, 79, 81, § 172C.4]

89 Acts, ch 311, §23; 91 Acts, ch 172, §4

C93, § 9H.4

93 Acts, ch 39, § 713; 94 Acts, ch 1153, §4, 5; 2003 Acts, ch 108, §35; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394

Footnotes

Exception to restrictions for cooperative corporations organized under chapter 501; requirements; see § 501.103

9H.5 Restrictions on authorized farm corporations, authorized limited liability companies, authorized

trusts, and limited partnerships penalty.

1. An authorized farm corporation, authorized limited liability company, or authorized trust shall not, on or after July 1, 1987, and a limited partnership other than a family farm limited partnership shall not, on or after July 1, 1988, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the authorized farm corporation, authorized limited liability company, limited partnership, or authorized trust would then exceed one thousand five hundred acres.

a. However, the restrictions provided in this subsection do not apply to agricultural land that is leased by an authorized farm corporation, authorized trust, or limited partnership to the immediate prior owner of the land for the purpose of farming, as defined in section 9H.1. Upon cessation of the lease to the immediate prior owner, the authorized farm corporation, authorized trust, or limited partnership shall, within three years following the date of the cessation, sell or otherwise dispose of the agricultural land leased to the immediate prior owner.

b. This subsection also does not apply to land that is held or acquired and maintained by an authorized farm corporation, authorized trust, or limited partnership to protect significant elements of the state's natural open space heritage, including but not limited to significant river, lake, wetland, prairie, forest areas, other biologically significant areas, land containing significant archaeological, historical, or cultural value, or fish or wildlife habitats, as defined in rules adopted by the department of natural resources.

2. A person shall not, after July 1, 1988, become a stockholder of an authorized farm corporation, a beneficiary of an authorized trust, a member of an authorized limited liability company, or a limited partner in a limited partnership which owns or leases agricultural land if the person is also any of the following:

a. A stockholder of an authorized farm corporation.

b. A beneficiary of an authorized trust.

c. A limited partner in a limited partnership which owns or leases agricultural land.

d. A member of an authorized limited liability company.

However, this subsection shall not apply to limited partners in a family farm limited partnership.

3. *a.* An authorized farm corporation, authorized trust, authorized limited liability company, or limited partnership violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. A civil penalty of not more than one thousand dollars may be imposed on a person who becomes a stockholder of an authorized farm corporation, beneficiary of an authorized trust, member of an authorized limited liability company, or limited partner in a limited partnership in violation of this section. The person shall divest the interest held by the person in the corporation, trust, limited liability company, or limited partnership to comply with this section. The court may determine the method of divesting an interest held by a person found to be in violation of this chapter. A financial gain realized by a person who disposes of an interest held in violation of this chapter shall be forfeited to the state's general fund. All court costs and fees shall be paid by the person holding the interest in violation of this chapter.

b. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

4. As used in this section, "*authorized trust*" does not include a revocable trust.

87 Acts, ch 146, § 1

CS87, § 172C.5

88 Acts, ch 1191, § 4; 91 Acts, ch 172, §5

C93, § 9H.5

93 Acts, ch 39, §1416; 94 Acts, ch 1153, §6

9H.5A Reports. Repealed by 2003 Acts, ch 115, § 17, 19.

9H.5B Reports by contract feeders. Transferred to § 202B.301; 2003 Acts, ch 115, § 16, 19.

9H.6 Lessees conducting research or experiments reports. Transferred to § 10B.7; 2003 Acts, ch 115, § 16, 19.

9H.7 and 9H.8 Reserved.

9H.9 Reports by processors. Transferred to § 202B.302; 2003 Acts, ch 115, § 16, 19.

9H.10 Signing reports. Transferred to § 202B.303; 2003 Acts, ch 115, § 16, 19.

9H.11 Penalties reports. Transferred to § 202B.402; 2003 Acts, ch 115, § 16, 19.

9H.12 and 9H.13 Reserved.

9H.14 Duties of secretary of state. Transferred to § 202B.304; 2003 Acts, ch 115, § 16, 19.

9H.15 Additional information. Transferred to § 202B.305; 2003 Acts, ch 115, § 16, 19.