

House Amendment 3381

Amendment Text

PAG LIN

1 1 Amend [House File 163](#) as follows:
1 2 #1. Page 1, lines 4 and 5, by striking the words
1 3 "authorized limited liability company;".
1 4 #2. Page 1, by inserting after line 7 the
1 5 following:
1 6 "Sec. _____. Section [9H.1](#), subsection 3A, Code 1995,
1 7 is amended by striking the subsection.
1 8 Sec. _____. Section [9H.1](#), subsection 8A, Code 1995,
1 9 is amended by striking the subsection.
1 10 Sec. _____. NEW SECTION. 9H.3A LIMITED LIABILITY
1 11 COMPANIES ‐ PROHIBITIONS.
1 12 A limited liability company shall not, either
1 13 directly or indirectly, hold or acquire or otherwise
1 14 obtain, lease, or have a legal or beneficial interest
1 15 in any agricultural land in this state. A limited
1 16 liability company shall not be a shareholder in a
1 17 corporation, a limited partner in a limited
1 18 partnership, or beneficiary of a trust which holds or
1 19 leases any agricultural land in this state. A limited
1 20 liability company violating the provisions of this
1 21 section shall be subject to the same penalty as
1 22 provided in section 9H.4. The courts of this state
1 23 may prevent and restrain violations of this section
1 24 through issuance of an injunction. The attorney
1 25 general or a county attorney shall institute suits on
1 26 behalf of the state to prevent or restrain violations
1 27 of this section. This section shall not apply to
1 28 agricultural land held or leased by a limited
1 29 liability company on the effective date of this Act,
1 30 as long as the limited liability company holding such
1 31 land on the effective date of this Act continues to
1 32 hold or lease such agricultural land in compliance
1 33 with this chapter as of the date when the limited
1 34 liability company either directly or indirectly first
1 35 held or acquired or otherwise obtained, leased, or
1 36 received a legal or beneficial interest in the
1 37 agricultural land.
1 38 Sec. _____. Section [9H.4](#), unnumbered paragraph 1,
1 39 Code 1995, is amended to read as follows:
1 40 A corporation

~~, limited liability company,~~
- or trust,
1 41 other than a family farm corporation, authorized farm
1 42 corporation,

~~family farm limited liability company,~~

-
1 43

~~authorized limited liability company,~~
- family trust,
1 44 authorized trust, revocable trust, or testamentary
1 45 trust shall not, either directly or indirectly,
1 46 acquire or otherwise obtain or lease any agricultural
1 47 land in this state. However, the restrictions
1 48 provided in this section shall not apply to the

1 49 following:

1 50 Sec. ____ Section [9H.4](#), subsection 2, paragraph c,
2 1 Code 1995, is amended to read as follows:

2 2 c. The agricultural land is used by a corporation
2 3

~~or limited liability company~~

~~-, including any trade or~~

2 4 business which is under common control, as provided in
2 5 26 U.S.C. } 414 for the primary purpose of testing,
2 6 developing, or producing animals for sale or resale to
2 7 farmers as breeding stock. However, after July 1,
2 8 1989, to qualify under this paragraph, the following
2 9 conditions must be satisfied:

2 10 (1) The corporation

~~or limited liability company~~

2 11 must not hold the agricultural land other than as a
2 12 lessee. The term of the lease must be for not more
2 13 than twelve years. The corporation

~~or limited~~

2 14

~~liability company~~

~~- shall not renew a lease. The~~

2 15 corporation or limited liability company shall not
2 16 enter into a lease under this paragraph, if the
2 17 corporation

~~or limited liability company~~

~~- has ever~~

2 18 entered into another lease under this paragraph "c",
2 19 whether or not the lease is in effect. However, this
2 20 subparagraph does not apply to a domestic corporation
2 21 organized under chapter 504 or 504A.

2 22 (2) A term or condition of sale, including resale,
2 23 of breeding stock must not relate to the direct or
2 24 indirect control by the corporation

~~or limited~~

2 25

~~liability company~~

~~- of the breeding stock or breeding~~

2 26 stock progeny subsequent to the sale.

2 27 (3) The number of acres of agricultural land held
2 28 by the corporation

~~or limited liability company~~

~~- must~~

2 29 not exceed six hundred forty acres.

2 30 (4) The corporation

~~or limited liability company~~

2 31 must deliver a copy of the lease to the secretary of
2 32 state. The secretary of state shall notify the lessee
2 33 of receipt of the copy of the lease. However, this
2 34 subparagraph does not apply to a domestic corporation
2 35 organized under chapter 504 or 504A.

2 36 Culls and test animals may be sold under this
2 37 paragraph "c". For a three-year period beginning on
2 38 the date that the corporation

~~or limited liability~~

-
2 39

~~company~~

- acquires an interest in the agricultural land,
2 40 the gross sales for any year shall not be greater than
2 41 five hundred thousand dollars. After the three-year
2 42 period ends, the gross sales for any year shall not be
2 43 greater than twenty-five percent of the gross sales
2 44 for that year of the breeding stock, or five hundred
2 45 thousand dollars, whichever is less.
2 46 Sec. _____. Section [9H.4](#), subsections 4, 5, and 8,
2 47 Code 1995, are amended to read as follows:
2 48 4. Agricultural land acquired by a corporation

~~or~~

-
2 49

~~limited liability company~~

- for immediate or potential
2 50 use in nonfarming purposes.
3 1 5. Agricultural land acquired by a corporation

~~or~~

-
3 2

~~limited liability company~~

- by process of law in the
3 3 collection of debts, or pursuant to a contract for
3 4 deed executed prior to August 15, 1975, or by any
3 5 procedure for the enforcement of a lien or claim
3 6 thereon, whether created by mortgage or otherwise.
3 7 8. A corporation or its subsidiary organized under
3 8 chapter 490

~~or a limited liability company organized~~

-
3 9

~~under chapter 490A~~

- and to which section 312.8 is
3 10 applicable.
3 11 Sec. _____. Section [9H.4](#), subsection 11, unnumbered
3 12 paragraph 2, Code 1995, is amended to read as follows:
3 13 A corporation

~~, limited liability company,~~

- or trust,
3 14 other than a family farm corporation, authorized farm
3 15 corporation,

~~family farm limited liability company,~~

-
3 16

~~authorized limited liability company,~~

- family trust,
3 17 authorized trust, revocable trust, or testamentary
3 18 trust, violating this section shall be assessed a
3 19 civil penalty of not more than twenty-five thousand
3 20 dollars and shall divest itself of any land held in
3 21 violation of this section within one year after
3 22 judgment. The courts of this state may prevent and

3 23 restrain violations of this section through the
3 24 issuance of an injunction. The attorney general or a
3 25 county attorney shall institute suits on behalf of the
3 26 state to prevent and restrain violations of this
3 27 section.

3 28 Sec. _____. Section [9H.5](#), subsection 1, unnumbered
3 29 paragraph 1, Code 1995, is amended to read as follows:
3 30 An authorized farm corporation

~~authorized limited~~

3 31

~~liability company,~~

- or authorized trust shall not, on
3 32 or after July 1, 1987, and a limited partnership other
3 33 than a family farm limited partnership shall not, on
3 34 or after July 1, 1988, either directly or indirectly,
3 35 acquire or otherwise obtain or lease agricultural
3 36 land, if the total agricultural land either directly
3 37 or indirectly owned or leased by the authorized farm
3 38 corporation,

~~authorized limited liability company,~~

3 39 limited partnership, or authorized trust would then
3 40 exceed one thousand five hundred acres."

3 41 #3. Page 1, by striking line 27.

3 42 #4. By striking page 1, line 31 through page 2,
3 43 line 17 and inserting the following:

3 44 "Sec. _____. Section [9H.5](#), subsection 3, paragraph
3 45 a, Code 1995, is amended to read as follows:

3 46 a. An authorized farm corporation, authorized
3 47 trust,

~~authorized limited liability company,~~

- or

3 48 limited partnership violating this section shall be
3 49 assessed a civil penalty of not more than twenty-five
3 50 thousand dollars and shall divest itself of any land
4 1 held in violation of this section within one year
4 2 after judgment. A civil penalty of not more than one
4 3 thousand dollars may be imposed on a person who
4 4

~~becomes~~

- holds an interest in an authorized entity by

4 5 being a stockholder of an authorized farm corporation,

4 6 beneficiary of an authorized trust,

~~member of an~~

4 7

~~authorized limited liability company,~~

- or limited

4 8 partner in a limited partnership in violation of this
4 9 section. The person shall divest the interest held by
4 10 the person in the corporation, trust,

~~limited~~

4 11

~~liability company,~~

- or limited partnership to comply

4 12 with this section. The court may determine the method

4 13 of divesting an interest held by a person found to be
4 14 in violation of this chapter. A financial gain
4 15 realized by a person who disposes of an interest held
4 16 in violation of this chapter shall be forfeited to the
4 17 state's general fund. All court costs and fees shall
4 18 be paid by the person holding the interest in
4 19 violation of this chapter.

4 20 Sec. _____. Section [9H.5A](#), subsection 2, paragraph
4 21 d, Code 1995, is amended to read as follows:

4 22 d. A person who is a member, manager, or
4 23 authorized representative of a limited liability
4 24 company, other than a family farm limited liability
4 25 company allowed to hold or lease agricultural land
4 26 prior to the effective date of this Act, including an
4 27 authorized limited liability company, owning or
4 28 leasing agricultural land or engaged in farming in
4 29 this state.

4 30 Sec. _____. Section [161C.6](#), subsection 2, paragraphs
4 31 b and d, Code 1995, are amended to read as follows:

4 32 b. A person shall not be eligible to participate
4 33 in the program, unless the person is an individual
4 34 family farmer, an individual actively engaged in
4 35 farming as provided in section 9H.1, subsection 1,
4 36 paragraphs "a" through "c", or the person is a family
4 37 farm corporation, family farm limited partnership, or
4 38 a family trust,

~~or a family farm limited liability~~

4 39

~~company,~~

~~all as defined in section 9H.1.~~

4 40 d. The division shall maintain records regarding
4 41 each award of financial incentives under this section,
4 42 including the name of the person; the amount of the
4 43 award; the location of the livestock manure management
4 44 system established with financial incentive moneys;
4 45 and whether the person is a family farm corporation,
4 46 family farm limited partnership, or family trust

~~, or a~~

4 47

~~family farm limited liability company~~

4 48 Sec. _____. Section [175.2](#), subsection 6, Code 1995,
4 49 is amended to read as follows:

4 50 6. "Beginning farmer" means an individual,
5 1 partnership, or family farm corporation,

~~or family~~

5 2

~~farm limited liability company,~~

~~as defined in section~~

5 3 9H.1, with a low or moderate net worth that engages in
5 4 farming or wishes to engage in farming.

5 5 Sec. _____. Section [175.2](#), subsection 12, paragraph
5 6 d, Code 1995, is amended by striking the paragraph.

5 7 Sec. _____. Section [175.12](#), subsection 3, paragraphs
5 8 a, c, f, and g, Code 1995, are amended to read as
5 9 follows:

5 10 a. The beginning farmer is a resident of the
5 11 state. If the beginning farmer is a partnership, all

5 12 partners shall be residents of the state. If a
5 13 beginning farmer is a family farm corporation, all
5 14 shareholders shall be residents of the state.

~~If the~~

5 15

~~beginning farmer is a family farm limited liability~~

5 16

~~company, all members shall be residents of the state.~~

5 17 c. The beginning farmer has sufficient education,
5 18 training, or experience in the type of farming for
5 19 which the beginning farmer requests the mortgage or
5 20 secured loan. If the beginning farmer is a
5 21 partnership, all partners shall have sufficient
5 22 education, training, or experience in the type of
5 23 farming for which the beginning farmer requests the
5 24 mortgage or secured loan. If the beginning farmer is
5 25 a family farm corporation, all shareholders who are
5 26 not minors shall have sufficient education, training,
5 27 or experience in the type of farming for which the
5 28 beginning farmer requests the mortgage or secured
5 29 loan.

~~If the beginning farmer is a family farm~~

5 30

~~limited liability company, all members who are not~~

5 31

~~minors shall have sufficient education, training, or~~

5 32

~~experience in the type of farming for which the~~

5 33

~~beginning farmer requests the mortgage or secured~~

5 34

~~loan.~~

5 35 f. The beginning farmer shall materially and
5 36 substantially participate in farming. If the
5 37 beginning farmer is a partnership, or family farm
5 38 corporation,

~~or family farm limited liability company,~~

5 39 each partner

~~,
- or shareholder~~

~~, or member~~

~~- shall~~

5 40 materially and substantially participate in farming.

5 41 g. If the beginning farmer is an individual, the
5 42 agricultural land and agricultural improvements shall

5 43 only be used for farming by the individual, the
5 44 individual's spouse, or the individual's minor
5 45 children. If the beginning farmer is a partnership

~~—~~
—
5 46 or family farm corporation,

~~— or family farm limited~~

—
5 47

~~— liability company,~~

— the agricultural land and

5 48 agricultural improvements shall only be used for
5 49 farming by any or all of the partners

~~—~~
— or

5 50 shareholders,

~~— or members,~~

— including their spouses and

6 1 minor children."

6 2 #5. Title page, line 1, by inserting after the

6 3 word "for" the following: "certain entities and for".

6 4 #6. By renumbering as necessary.

6 5

6 6

6 7

6 8 WEIGEL of Chickasaw

6 9 HF 163.304 76

6 10 da/cf