

4/10/95 Referred to agriculture

MAR 22 1995
Place On Calendar

HOUSE FILE 521
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 279)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to restrictions on persons eligible to hold
2 agricultural land, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 9H.1, subsections 3, 3A, and 4, Code
2 1995, are amended to read as follows:

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

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

8 ~~b.---The,~~ if the stockholders are all natural persons, or
9 persons acting in a fiduciary capacity for the benefit of
10 natural persons or nonprofit corporations, or family farm
11 entities, and either of the following applies:

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

13 b. The stockholders holding more than fifty percent of the
14 equity investment in the corporation are farmers who reside in
15 this state. Common stock shall be issued in two classes,
16 voting and nonvoting. Voting stock shall be issued to all
17 farmers and nonvoting stock to all other stockholders.
18 Nonvoting stock shall have all privileges of stock ownership
19 except the right to vote. At least once each year, the
20 corporation shall require that each stockholder certify
21 whether the stockholder is a farmer, and the corporation shall
22 then redeem and reissue stock so that only those stockholders
23 who have certified that they are farmers hold voting stock.
24 The filing of a false certification with the corporation is
25 punishable by a civil penalty not to exceed one thousand
26 dollars.

27 3A. "Authorized limited liability company" means a limited
28 liability company other than a family farm limited liability
29 company founded for the purpose of farming and the ownership
30 of agricultural land ~~in which all of the following apply:~~

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

32 ~~b.---The,~~ if the members are all natural persons, or persons
33 acting in a fiduciary capacity for the benefit of natural
34 persons or nonprofit corporations, or family farm entities,
35 and either of the following applies:

- 1 a. The members do not exceed twenty-five in number.
- 2 b. The members holding more than fifty percent of the
- 3 equity investment in the company are farmers who reside in
- 4 this state.

5 4. "Authorized trust" means a trust other than a family
6 trust in-which:

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

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

13 ~~c.---Its,~~ or family farm entities, where the income of the
14 trust is not exempt from taxation under the laws of either the
15 United States or the state of Iowa; and either of the
16 following applies:

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

18 b. The beneficiaries holding more than fifty percent of
19 the equity interest in the corpus of the trust are farmers who
20 reside in this state.

21 Sec. 2. Section 9H.1, Code 1995, is amended by adding the
22 following new subsections:

23 NEW SUBSECTION. 8B. "Family farm entity" means a family
24 farm corporation, family farm limited liability company,
25 family farm partnership, or family trust.

26 NEW SUBSECTION. 10A. "Farmer" means a person who is one
27 of the following:

28 a. A person who regularly participates in physical labor
29 or the day-to-day management of a farming operation and who
30 files a schedule F as part of the person's annual form 1040
31 filing with the United States internal revenue service.

32 b. A person who qualified under paragraph "a" for twenty
33 or more years in the past.

34 c. A family farm entity.

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EXPLANATION

1 Chapter 9H currently restricts persons eligible to hold
2 agricultural land in this state. Authorized farm
3 corporations, authorized limited liability companies, and
4 authorized trusts may hold up to 1,500 acres of agricultural
5 land. An authorized entity must be founded for purposes of
6 farming and the ownership of agricultural land. In addition,
7 the stockholders, members, or beneficiaries must not exceed 25
8 in number and all must be natural persons or persons acting in
9 a fiduciary capacity for the natural persons or nonprofit
10 corporations.

11 This bill provides that an authorized entity may also be an
12 entity in which more than 50 percent of the equity investment
13 is held by stockholders, members, or beneficiaries, who are
14 farmers who reside in the state. In the case of an authorized
15 farm corporation, the bill requires that common stock be
16 issued in two classes, voting and nonvoting. Voting stock
17 must be issued to farmers and nonvoting stock to all other
18 stockholders. The bill provides for an annual certification
19 by stockholders to verify whether they are farmers. A person
20 who falsifies a certification is subject to a civil penalty.

21 The bill also provides that a stockholder, member, or
22 beneficiary may be a family farm corporation, family farm
23 limited liability company, family farm limited partnership, or
24 a family farm trust. The bill defines a farmer as a person
25 who regularly participates in physical labor or management of
26 the family operation and who files a schedule F as part of the
27 person's annual form 1040 filing with the United States
28 internal revenue service. The bill also provides that a
29 farmer includes a person who has qualified as a farmer under
30 that definition for 20 or more years, or a family farm entity.

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HOUSE FILE 521

H-3673

1 Amend House File 521 as follows:

2 1. Page 1, line 13, by striking the word "fifty"
3 and inserting the following: "seventy-five".

4 2. Page 2, line 2, by striking the word "fifty"
5 and inserting the following: "seventy-five".

6 3. Page 2, line 18, by striking the word "fifty"
7 and inserting the following: "seventy-five".

By WEIGEL of Chickasaw

H-3673 FILED APRIL 3, 1995

HOUSE FILE 521

H-3503

1 Amend House File 521 as follows:

2 1. Page 1, by striking line 8 and inserting the
3 following:

4 ~~b.---The,~~ if either of the following applies:

5 a. The stockholders are do not exceed twenty-five
6 in number and all the stockholders are natural persons
7 or,".

8 2. Page 1, line 10, by striking the word "or" and
9 inserting the following: "or,".

10 3. Page 1, by striking lines 11 and 12 and
11 inserting the following: "entities.".

12 4. Page 1, line 34, by striking the word "or" and
13 inserting the following: "or,".

By MEYER of Sac

H-3503 FILED MARCH 27, 1995

HOUSE FILE 521

H-3674

- 1 Amend House File 521 as follows:
2 1. Page 1, line 13, by striking the words "more
3 than fifty" and inserting the following: "one
4 hundred".
5 2. Page 2, line 2, by striking the words "more
6 than fifty" and inserting the following: "one
7 hundred".
8 3. Page 2, line 18, by striking the words "more
9 than fifty" and inserting the following: "one
10 hundred".

By WEIGEL of Chickasaw

H-3674 FILED APRIL 3, 1995

HOUSE FILE 521

H-3682

- 1 Amend House File 521 as follows:
2 1. Page 1, by striking line 13 and inserting the
3 following:
4 " . Both of the following apply:
5 () The stockholders holding more than fifty
6 percent of the".
7 2. Page 1, by inserting after line 26 the
8 following:
9 "() The revenue of the corporation from rent,
10 royalties, dividends, interest, and annuities does not
11 exceed twenty percent of its gross receipts."
12 3. Page 2, by striking line 2 and inserting the
13 following:
14 " . Both of the following apply:
15 () The members holding more than fifty percent
16 of the".
17 4. Page 2, by inserting after line 4 the
18 following:
19 "() The revenue of the company from rent,
20 royalties, dividends, interest, and annuities does not
21 exceed twenty percent of its gross receipts."
22 5. Page 2, by striking line 18 and inserting the
23 following:
24 " . Both of the following apply:
25 () The beneficiaries holding more than fifty
26 percent of".
27 6. Page 2, by inserting after line 20 the
28 following:
29 "() The revenue of the trust from rent,
30 royalties, dividends, interest, and annuities does not
31 exceed twenty percent of its gross receipts."
32 7. By relettering and renumbering as necessary.

By WEIGEL of Chickasaw

H-3682 FILED APRIL 3, 1995

HOUSE FILE 521

H-3721

1 Amend House File 521 as follows:

2 1. Page 2, by inserting after line 34 the
3 following:

4 "Sec. ____ . Section 9H.5, Code 1995, is amended by
5 adding the following new subsection:

6 NEW SUBSECTION. 2A. If a person who is a
7 stockholder of an authorized farm corporation, a
8 member of an authorized limited liability company, a
9 beneficiary of an authorized trust, or a limited
10 partner of a limited partnership proposes to transfer
11 an interest in the authorized entity to a person other
12 than a natural person who is a farmer stockholder, a
13 farmer member, a farmer beneficiary, or a farmer
14 limited partner, the transferor must first offer to
15 sell or dispose of the interest to each of the natural
16 persons who are farmer stockholders, farmer members,
17 farmer beneficiaries, or farmer limited partners on
18 the same terms and at the same price as proposed to
19 the person who is not a natural person who is a farmer
20 stockholder, farmer member, farmer beneficiary, or
21 farmer limited partner. Each natural person who is a
22 farmer stockholder, farmer member, farmer beneficiary,
23 or farmer limited partner shall have ten business days
24 after being given notice of the terms and price of the
25 proposed transfer in which to exercise the right to
26 purchase the interest by submitting a binding offer to
27 the transferor on the same terms as the proposed
28 transfer, with execution of the transfer to occur
29 within thirty days after the offer unless otherwise
30 agreed by the parties. If more than one natural
31 person who is a farmer stockholder, farmer member,
32 farmer beneficiary, or farmer limited partner
33 exercises the right to purchase the interest, the
34 transferor shall transfer the interest according to
35 terms negotiated between the parties. After the
36 expiration of either the period for offer or the
37 period for execution without the submission of an
38 offer or an execution, the transferor may sell or
39 otherwise dispose of the interest to any other person
40 on the terms upon which it was offered to the natural
41 persons who are farmer stockholders, farmer members,
42 farmer beneficiaries, or farmer limited partners.
43 However, this subsection shall not apply to a transfer
44 of an interest between persons related to each other
45 as spouse, parent, grandparent, lineal ascendants of
46 grandparents or their spouses and other lineal
47 descendants of the grandparents or their spouses or
48 persons acting in a fiduciary capacity for persons so
49 related."

50 2. By renumbering as necessary.

By MUNDIE of Webster

H-3721 FILED APRIL 4, 1995

HOUSE FILE 521

H-3726

1 Amend House File 521 as follows:

2 1. Page 1, line 8, by inserting after the word
3 "if" the following: "the stockholders holding
4 seventy-five percent or more of the control and
5 financial investment in the corporation are farmers
6 residing in this state, more than fifty percent of the
7 required percentage of farmers are actively engaged in
8 livestock production,".

9 2. Page 1, line 32, by inserting after the word
10 "if" the following: "the members holding seventy-five
11 percent or more of the control and financial
12 investment in the limited liability company are
13 farmers residing in this state, more than fifty
14 percent of the required percentage of farmers are
15 actively engaged in livestock production,".

16 3. Page 2, line 9, by inserting after the word
17 "if" the following: "the beneficiaries holding
18 seventy-five percent or more of the control and
19 financial investment in the trust are farmers residing
20 in this state, more than fifty percent of the required
21 percentage of farmers are actively engaged in
22 livestock production,".

By WEIGEL of Chickasaw

H-3726 FILED APRIL 4, 1995

HOUSE FILE 521

H-3735

1 Amend the amendment, H-3503, to House File 521 as
2 follows:

3 1. Page 1, by inserting after line 11 the
4 following:

5 "____. Page 1, line 15, by inserting after the
6 word "state" the following: ", and all the
7 stockholders are natural persons, persons acting in a
8 fiduciary capacity for the benefit of natural persons,
9 nonprofit corporations, or family farm entities".

By WEIGEL of Chickasaw

H-3735 FILED APRIL 4, 1995

HOUSE FILE 521

H-3730

1 Amend House File 521 as follows:

2 1. Page 1, line 1, by striking the word and
3 figure "and 4" and inserting the following: "4, and
4 5".

5 2. Page 2, by inserting after line 20 the
6 following:

7 ~~"5.--"Beneficial-ownership"-includes-interests-held~~
8 ~~by-a-nonresident-alien-individual-directly-or~~
9 ~~indirectly-holding-or-acquiring-a-ten-percent-or~~
10 ~~greater-share-in-the-partnership,-limited-partnership,~~
11 ~~corporation,-limited-liability-company,-or-trust,-or~~
12 ~~directly-or-indirectly-through-two-or-more-such~~
13 ~~entities.--In-addition,-the-term-beneficial-ownership~~
14 ~~shall-include-interests-held-by-all-nonresident-alien~~
15 ~~individuals-if-the-nonresident-alien-individuals-in~~
16 ~~the-aggregate-directly-or-indirectly-hold-or-acquire~~
17 ~~twenty-five-percent-or-more-of-the-partnership,~~
18 ~~limited-partnership,-corporation,-limited-liability~~
19 ~~company,-or-trust."~~

20 3. Page 2, by inserting after line 34 the
21 following:

22 "Sec. ____ . Section 9H.1, subsection 18, Code 1995,
23 is amended by striking the subsection.

24 Sec. ____ . Section 567.3, subsection 1, Code 1995,
25 is amended to read as follows:

26 1. A nonresident alien, foreign business or
27 foreign government, or an agent, trustee or fiduciary
28 thereof, shall not purchase or otherwise acquire
29 agricultural land in this state. A nonresident alien,
30 foreign business or foreign government, or an agent,
31 trustee or fiduciary thereof, which owns or holds
32 agricultural land in this state on January 1, 1980,
33 may continue to own or hold the land, but shall not
34 purchase or otherwise acquire additional agricultural
35 land in this state. For purposes of this chapter, a
36 nonresident alien, foreign business, or foreign
37 government, or an agent, trustee, or fiduciary
38 thereof, shall be deemed to have purchased or
39 otherwise acquired agricultural land in this state, if
40 the nonresident alien, foreign business, or foreign
41 government, or the agent, trustee, or fiduciary,
42 becomes a general partner in a partnership which
43 holds, acquires, or leases agricultural land, or
44 becomes a shareholder in a corporation, authorized
45 farm corporation, or family farm corporation; or
46 becomes a member of a limited liability company,
47 authorized limited liability company, or family farm
48 limited liability company; or becomes a limited
49 partner in a limited partnership or a family farm
50 limited partnership; or becomes a beneficiary of a

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H-3730

Page 2

1 trust, an authorized trust, or a family trust, all as
2 defined in section 9H.1, which acquires, holds, or
3 leases an interest in agricultural land.

4 Sec. ____ . Section 567.5, Code 1995, is amended to
5 read as follows:

6 567.5 LAND ACQUIRED BY DEVISE OR DESCENT.

7 A nonresident alien, foreign business or foreign
8 government, or an agent, trustee or fiduciary thereof,
9 which acquires agricultural land or an interest in
10 agricultural land, by devise or descent after January
11 1, 1980, shall divest itself of all right, title and
12 interest in the land within two years from the date of
13 acquiring the land or interest. This section shall
14 not require divestment of agricultural land or an
15 interest in agricultural land, acquired by devise or
16 descent from a nonresident alien, if such land or an
17 interest in such land was acquired by any nonresident
18 alien prior to July 1, 1979. A nonresident alien,
19 foreign business, or foreign government, or an agent,
20 trustee, or fiduciary thereof, which becomes a general
21 partner in a partnership; or becomes a shareholder in
22 a corporation, authorized corporation, or family farm
23 corporation; or becomes a member of a limited
24 liability company, authorized limited liability
25 company, or family farm limited liability company; or
26 becomes a limited partner in a limited partnership or
27 a family farm limited partnership; or becomes a
28 beneficiary of a trust, an authorized trust, or a
29 family trust, all as defined in section 9H.1, which
30 acquires, holds, or leases agricultural land, by
31 devise or descent on and after the effective date of
32 this Act, shall divest itself of all right, title, and
33 interest in the land within two years from the date of
34 acquiring the land or interest. This section shall
35 not require divestment of an interest in any form of a
36 general partnership, corporation, limited liability
37 company, limited partnership, or trust which holds an
38 interest in or leases agricultural land acquired by
39 devise or descent from a nonresident alien, if such
40 interest was acquired by any nonresident alien prior
41 to the effective date of this Act."

42 4. By renumbering as necessary.

By WEIGEL of Chickasaw
BURNETT of Story

H-3730 FILED APRIL 4, 1995

*Meyer Ch.
Hahn
Weigle*

HSB 279

Agriculture

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HOUSE FILE 521

BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON EDDIE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to restrictions on persons eligible to hold
2 agricultural land.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 9H.1, subsections 3, 3A, and 4, Code
2 1995, are amended to read as follows:

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

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

8 ~~b.---The,~~ if the stockholders are all natural persons, or
9 persons acting in a fiduciary capacity for the benefit of
10 natural persons or nonprofit corporations, or family farm
11 entities, and either of the following applies:

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

13 b. The stockholders holding more than fifty percent of the
14 equity investment in the corporation are farmers who reside in
15 this state.

16 3A. "Authorized limited liability company" means a limited
17 liability company other than a family farm limited liability
18 company founded for the purpose of farming and the ownership
19 of agricultural land in-which-all-of-the-following-apply:

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

21 ~~b.---The,~~ if the members are all natural persons, or persons
22 acting in a fiduciary capacity for the benefit of natural
23 persons or nonprofit corporations, or family farm entities,
24 and either of the following applies:

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

26 b. The members holding more than fifty percent of the
27 equity investment in the corporation are farmers who reside in
28 this state.

29 4. "Authorized trust" means a trust other than a family
30 trust in-which:

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

33 ~~b.---The,~~ if the beneficiaries are all natural persons, who
34 are not acting as a trustee or in a similar capacity for a
35 trust as defined in subsection 22 of-this-section, or persons

1 acting in a fiduciary capacity, or nonprofit corporations; and
2 ~~or trusts~~, or family farm entities, where the income of the
3 trust is not exempt from taxation under the laws of either the
4 United States or the state of Iowa; and either of the
5 following applies:

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

7 b. The beneficiaries holding more than fifty percent of
8 the equity interest in the corpus of the trust are farmers who
9 reside in this state or are family farm corporations
10 controlled by persons who reside in this state.

11 Sec. 2. Section 9H.1, Code 1995, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 8B. "Family farm entity" means a family
14 farm corporation, family farm limited liability company,
15 family farm partnership, or family trust.

16 NEW SUBSECTION. 10A. "Farmer" means a person who
17 regularly participates in physical labor or the day-to-day
18 management of a farming operation and who files a schedule F
19 as part of the person's annual form 1040 filing with the
20 United States internal revenue service.

21 EXPLANATION

22 Chapter 9H currently restricts persons eligible to hold
23 agricultural land in this state. Authorized farm
24 corporations, authorized limited liability companies, and
25 authorized trusts may hold up to 1,500 acres of agricultural
26 land. An authorized entity must be founded for purposes of
27 farming and the ownership of agricultural land. In addition,
28 the stockholders, members, or beneficiaries must not exceed 25
29 in number and all must be natural persons or persons acting in
30 a fiduciary capacity for the natural persons or nonprofit
31 corporations.

32 This bill provides that an authorized entity may also be an
33 entity in which 50 percent of the equity investment is held by
34 stockholders, members, or beneficiaries, who are farmers who
35 reside in the state.

1 The bill also provides that a stockholder, member, or
2 beneficiary may be a family farm corporation, family farm
3 limited liability company, family farm limited partnership, or
4 a family farm trust.

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