



# The National Agricultural Law Center

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## Farm Ownership & Corporate Farming Laws: *Nebraska*



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# A National Agricultural Law Center Research Publication

## Farm Ownership & Corporate Farming Laws: Nebraska

### Fast Find:

- 1) Prohibition: Neb. Rev. Stat. §§ 4-107; 76-402; 76-403; 76-404; 76-405; 76-408; 76-409; 76-410; 76-411; 46-412; 76-413; 76-414; 76-415
- 2) Permission: None
- 3) Reporting: Neb. Rev. Stat. §§ 76-1520; 76-1521; 76-1523; 76-1524
- 4) Corporate Farming: Neb. Rev. Stat. §§ 76-402; 76-406; 76-407; 76-1520; 76-1521; 76-1523; 76-1524

### [Neb. Rev. Stat. § 4-107](#) [Neb. Rev. Stat. §§ 76-402 to 76-415](#) [Neb. Rev. Stat. §§ 76-1520 to 76-1524](#)

*Current through laws passed by the 2023 First Regular Session of the 108th Nebraska State Legislature.*

#### **§ 4-107. Nonresident alien; property by succession or testamentary disposition; taking of property in this state; conditions; escheat; disposition of escheated property**

(1) The right of an alien not residing within the United States or its territories to take either real or personal property or the proceeds thereof in this state by succession or testamentary disposition, upon the same terms and conditions as inhabitants and citizens of the United States, is dependent in each case:

(a) Upon the existence of a reciprocal right upon the part of citizens of the United States to take real and personal property and the proceeds thereof upon the same terms and conditions as inhabitants and citizens of the country of which such alien is an inhabitant;

(b) Upon the rights of citizens of the United States to receive by payment to them within the United States or its territories money originating from the estates of persons dying within such foreign country; and

(c) Upon proof that such nonresident alien heirs, distributees, devisees, or legatees may receive the benefit, use, or control of property or proceeds from estates of persons dying in this state without confiscation in whole or in part, by the governments of such foreign countries.

(2) The burden is upon such nonresident alien to establish the fact of existence of the reciprocal rights set forth in subsection (1) of this section.



(3) If such reciprocal rights are not found to exist, the property shall be delivered to the State Treasurer to be held for a period of five years from date of death during which time such nonresident alien may show that he has become eligible to receive such property. If at the end of such period of five years no showing of eligibility is made by such nonresident alien, his rights to such property or proceeds shall be barred.

(4) At any time within the one year following the date the rights of such nonresident alien have been barred, any other person other than an ineligible nonresident alien who, in the case of succession or testamentary disposition, would have been entitled to the property or proceeds by virtue of the laws of Nebraska governing intestate descent and distribution had the nonresident alien predeceased the decedent, may petition the district court of Lancaster County for payment or delivery of such property or proceeds to those entitled thereto.

(5) If no person has petitioned the district court of Lancaster County for payment or delivery of such property or proceeds within six years from the date of death of decedent, such property or proceeds shall be disposed of as escheated property.

(6) All property other than money delivered to the State Treasurer under this section may within one year after delivery be sold by him to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The State Treasurer may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property. Any sale held under this section shall be preceded by a single publication of notice thereof at least three weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold and the cost of such publication and other expenses of sale paid out of the proceeds of such sale. The purchaser at any sale conducted by the State Treasurer pursuant to this section shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Treasurer shall execute all documents necessary to complete the transfer of title.

#### **§ 76-402. Aliens and foreign corporations; real estate; ownership prohibited**

Aliens and corporations not incorporated under the laws of the State of Nebraska are prohibited from acquiring title to or taking or holding any land, or real estate, or any leasehold interest extending for a period for more than five years or any other greater interest less than fee in any land, or real estate in this state by descent, devise, purchase or otherwise, except as provided in sections 76-403 to 76-405.

#### **§ 76-403. Widow or heirs of aliens; right to land**

The widow and heirs of aliens, who have prior to March 16, 1889, acquired lands in this state under the laws thereof, may hold such lands by devise or descent for a period of ten years and no longer, and if at the end of such time such lands, so acquired, have not been sold to a bona fide purchaser for value, such lands or



other interest therein shall revert and escheat to the State of Nebraska. It shall be the duty of the county attorney in the counties where such lands are situated to enforce forfeitures of all such lands or other interests therein as provided by section 76-408.

#### **§ 76-404. Oil and gas leases permitted**

Corporations incorporated under the laws of the United States of America, or under the laws of any state of the United States of America, or any foreign corporation or any alien, doing business in this state, may acquire, own, hold, or operate leases for oil, gas, or other hydrocarbon substances, for a period as long as ten years and as long thereafter as oil, gas, or other hydrocarbon substances shall or can be produced in commercial quantities.

#### **§ 76-405. Land acquired by devise or descent; sale within five years required**

Any resident alien may acquire title to lands in this state by devise or descent only, provided such alien shall be required to sell and convey said real property within five years from the date of acquiring it, and if he shall fail to dispose of it to a bona fide purchaser for value within that time, it shall revert and escheat to the State of Nebraska.

#### **§ 76-406. Corporations; board of directors; election of aliens; restrictions**

No corporation organized under the laws of this state and no corporation organized under the laws of any other state or country, doing business in this state, which was organized to hold or is holding real estate, except as provided in sections 76-404 and 76-412 to 76-414, shall elect aliens as members of its board of directors or board of trustees in number sufficient to constitute a majority of such board, nor elect aliens as executive officers or managers nor have a majority of its capital stock owned by aliens.

#### **§ 76-407. Corporations; violations; penalties**

Any such corporation violating the provisions of section 76-406 shall be construed and held to be an alien and within the provisions of sections 76-401 to 76-415 applicable to alien persons. Any such domestic corporation violating the provisions of section 76-406 shall forfeit its charter and be dissolved. Any such foreign corporation violating the provisions of said section shall forfeit its right to do business in the State of Nebraska.

#### **§ 76-408. Forfeiture of land; duty of county attorney to enforce; procedure; costs**

Whenever any such lands shall revert and escheat to the State of Nebraska, as provided in sections 76-403, 76-405, and 76-411, it shall be the duty of the county attorney of the county in which such lands are situated, to proceed against such alien in the district court of the county where the land is situated for the purpose of having such forfeiture declared. The nonresident alien defendants shall be served in the manner provided for the service of a summons in a civil action, and the court shall have power to hear and determine the questions



presented in such cases and to declare such lands escheated to the state. When such forfeiture shall be declared by the district court, it shall be the duty of the clerk of the court to notify the Governor of the state that the title to such lands is vested in the state by the decree of the court. The clerk of the court shall present the Director of Administrative Services with the bill of costs incurred by the county in prosecuting such case, who shall issue a warrant to the clerk of the court on the state treasury to repay the county for such costs incurred. The heirs or persons who would have been entitled to such lands shall be paid by the State of Nebraska the full value thereof, as ascertained by appraisement upon the oaths of the judge, treasurer, and clerk of the county where such lands lie, and such lands shall become subject to the law, and shall be disposed of as other lands belonging to the state; Provided, the expense of the appraisement shall be deducted from the appraised value of the land.

#### **§ 76-409. Forfeiture of land; sale at request of heirs; title of purchaser**

At any time before the proceedings for forfeiture provided for in section 76-408 by the county attorney shall be instituted, or at any time before final decree in any such proceedings, the widow, heirs and devisees, or either of them, of deceased nonresident aliens, may, by answer in said proceedings, or by independent action in the district court of any county in which any such lands are situated, instead of the forfeiture, have the lands sold as in partition, except that it shall not be necessary for the referee or referees to report that the land cannot be divided, but the same shall be ordered sold by the court at once, and the proceeds, after the payment of costs as in other cases of partition, shall be divided according to the respective interests of the parties the same as if there had been no escheat. The purchaser at any such sale shall acquire the same title to the lands purchased which he would have acquired if the nonresident alien had been a resident or citizen. In case there is only one party in interest, he may maintain an ex parte proceeding and have the land sold in the same manner, and the purchaser shall receive the same title as if there were several parties in interest, and after the payment of costs the proceeds of the sale shall be paid to the sole party in interest.

#### **§ 76-410. Owners of land in 1889; sale during lifetime required**

Any alien who owned land in this state on March 16, 1889, may dispose of the same during his life to bona fide purchasers for value, and may take security for the purchase money with the same rights as to securities as a citizen of the United States except as hereinafter limited by section 76-411.

#### **§ 76-411. Liens upon real estate; acquisition of such real estate; duty to sell within ten years**

The statutes of Nebraska shall not prevent the holders, whether aliens or corporations not organized under the laws of the State of Nebraska, of liens upon real estate or any interest therein, from holding or taking valid title to the real estate subject to such liens, nor shall it prevent any such alien or corporation from enforcing any lien or judgment for any debt or liability, nor from



becoming a purchaser at any sale made for the purpose of collecting or enforcing the collection of such debt or judgment; Provided, however, all lands so acquired shall be sold within ten years after the title thereto shall be perfected in such alien or foreign corporation, and in default of such sale within such time, such real estate shall revert and escheat to the State of Nebraska.

**§ 76-412. Sections; not applicable to real estate of railroads, public utilities, and common carriers**

The provisions of sections 76-402, 76-406, 76-407 and 76-411 shall not apply to the real estate necessary for the construction and operation of railroads, public utilities and common carriers.

**§ 76-413. Sections; not applicable to manufacturing or industrial establishments or establishments for storage, sale, and distribution of petroleum products**

Any alien or foreign corporation may purchase, acquire, and hold title to or be a lessor or lessee of as much real estate as shall be necessary for the purpose of (1) erecting thereon manufacturing or industrial establishments, and in addition thereto such real estate as may be required for facilities incidental to such establishments, or (2) erecting and maintaining establishments primarily operated for the storage, sale, and distribution of petroleum products, commonly known as filling stations or bulk stations.

**§ 76-414. Sections; not applicable to real estate within cities and villages or within three miles of cities and villages; not applicable to manufacturing or industrial establishments**

The provisions of sections 76-402 to 76-413 shall not apply to any real estate lying within the corporate limits of cities and villages, or within three miles thereof, nor to any manufacturing or industrial establishment referred to in section 76-413.

**§ 76-415. Sections; not applicable to real estate acquired by aliens before 1889**

The provisions of sections 76-402 to 76-413 shall not apply to any real estate acquired by any alien prior to March 16, 1889, as long as such real property shall remain the property of such alien.

**§ 76-1520. Interest in real estate used for farming or ranching; reports required**

(1) A person serving as the president, a general partner, any other officer, or an authorized representative of a corporation, limited partnership, limited liability partnership, or limited liability company or a corporate trustee of a trust shall report to the Secretary of State:





(a) Any interest in real estate held by the corporation, limited partnership, limited liability partnership, limited liability company, or trust used for farming or ranching in this state as defined under Article XII, section 8, of the Constitution of Nebraska;

(b) Any activity or enterprise performed, conducted, or engaged in by the corporation, limited partnership, limited liability partnership, limited liability company, or trust defined as farming or ranching in this state under Article XII, section 8, of the Constitution of Nebraska; and

(c) Whether the corporation, limited partnership, limited liability partnership, limited liability company, or trust contracts with others engaged in farming or ranching for the care or production of agricultural commodities, including livestock.

(2) The reports required by this section shall be open to the public.

(3) For purposes of sections 76-1520 to 76-1524, interest in real estate used for farming or ranching includes legal, beneficial, and other interests, including interests held by a corporation, limited partnership, limited liability partnership, limited liability company, or trust in a general partnership holding real estate used for farming or ranching, but does not include an interest in real estate used for farming or ranching acquired by a corporation, limited partnership, limited liability partnership, limited liability company, or trust by process of law in the collection of debts or by any procedures for the creation or enforcement of a lien, encumbrance, or claim on the real estate, whether created by mortgage or otherwise.

#### **§ 76-1521. Reports; form; contents; secretary of state; duties**

(1) The report required by section 76-1520 shall be on a form provided by the Secretary of State. The Secretary of State may incorporate the form with other forms required to be filed by entities identified in subsection (1) of section 76-1520. If there has been no change in the information contained in the previous report filed by the reporting entity, the reporting entity may so indicate in a space provided on the reporting form for that purpose.

(2) The Secretary of State shall include a list of exemptions to the prohibitions contained in Article XII, section 8, of the Constitution of Nebraska and a means by which persons filing the form may indicate, if applicable, which exemptions apply to the reporting entity. The reporting entity may include or attach a statement indicating the basis upon which the reporting entity claims exemption from the prohibitions contained in Article XII, section 8, of the Constitution of Nebraska.

(3) The Secretary of State shall annually prepare a report indicating the total number of entities reporting under sections 76-1520 to 76-1524, the number of entities reporting as a corporation, as a limited partnership, as a limited liability partnership, as a limited liability company, and as a trust and the basis upon which the reporting entities claim exemption from the prohibitions contained in Article XII, section 8, of the Constitution of Nebraska. The



Secretary of State shall deliver the report electronically to the Clerk of the Legislature on or before January 1 each year.

**§ 76-1523. Corporate trustee; fine; when**

(1) Any corporate trustee failing to report the information required by section 76-1520 or filing false information shall be punished by a fine of not more than five hundred dollars.

(2) Any fines received pursuant to this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**§ 76-1524. Secretary of state; Attorney General; powers**

The Secretary of State and the Attorney General, for the enforcement of both sections 76-1520 to 76-1524 and Article XII, section 8, of the Constitution of Nebraska, shall have the authority to subpoena witnesses, compel their attendance, examine them under oath, and require the production of documents, records, or tangible things deemed relevant to the proper performance of their duties. Service of any subpoena shall be made in the manner prescribed by the rules of civil procedure.

