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Farm Ownership & Corporate Farming Laws: *Oklahoma*



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Farm Ownership & Corporate Farming Laws: Oklahoma

Fast Find:

- 1) Reporting: None
- 2) Prohibition: [Okla. Const. art XXII, § 1](#); [Okla. Stat. tit. 60, §§ 121; 122; 123; 124; 125](#)
- 3) Corporate Farming: [Okla. Const. art XXII, § 2](#); [Okla. Stat. tit. 18, §§ 951; 952; 953; 954; 955; 956](#)

[Okla. Const. art. XXII, § 1](#) [Okla. Const. art. XXII, § 2](#) [Okla. Stat. tit. 18, §§ 951 to 956](#) [Okla. Stat. tit. 60, §§ 121 to 125](#)

Current through laws passed by the 2021 First Regular Session of the 58th Oklahoma State Legislature.

§ 1. Aliens—Ownership of land prohibited—Disposal of lands acquired

No alien or person who is not a citizen of the United States, shall acquire title to or own land in this state, and the Legislature shall enact laws whereby all persons not citizens of the United States, and their heirs, who may hereafter acquire real estate in this state by devise, descent, or otherwise, shall dispose of the same within five years upon condition of escheat or forfeiture to the State: Provided, This shall not apply to Indians born within the United States, nor to aliens or persons not citizens of the United States who may become bona fide residents of this State: And Provided Further, That this section shall not apply to lands now owned by aliens in this State.

§ 2. Corporations—Buying, acquiring or dealing in real estate

No corporation shall be created or licensed in this State for the purpose of buying, acquiring, trading, or dealing in real estate other than real estate located in incorporated cities and towns and as additions thereto; nor shall any corporation doing business in this State buy, acquire, trade, or deal in real estate for any purpose except such as may be located in such towns and cities and as additions to such towns and cities, and further except such as shall be necessary and proper for carrying on the business for which it was chartered or licensed; and provided further that under limitations prescribed by the legislature, any corporation may acquire real estate for lease or sale to any other corporation, if such latter corporation could have legally acquired the same in the first instance; nor shall any corporation be created or licensed to do business in this State for the purpose of acting as agent in buying and selling or leasing land for agricultural purposes; provided, however, that corporations shall not be precluded from taking



mortgages on real estate to secure loans or debts, or from acquiring title thereto upon foreclosure of such mortgages or in the collection of debts, conditioned that such corporation or corporations shall not hold such real estate for a longer period than seven (7) years after acquiring such title; and provided, further, that this Section shall not apply to trust companies taking only the naked title to real estate in this State as a trustee, to be held solely as security for indebtedness pursuant to such trust; and provided, further, that no public service corporation shall hold any land, or the title thereof, in any way whatever in this State, except as the same shall be necessary for the transaction and operation of its business as such public service corporation.

§ 951. Farming or ranching business corporations—Prohibition on formation—Exceptions

A. It is hereby declared to be the public policy of this state and shall be the prohibition of this act¹ that, notwithstanding the provisions of Section 5 of this act,² no foreign corporation shall be formed or licensed under the Oklahoma General Corporation Act³ for the purpose of engaging in farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching. A domestic corporation may, however, be formed under the Oklahoma General Corporation Act to engage in such activity if the following requirements are met by that domestic corporation:

1. There shall be no shareholders other than (a) natural persons; (b) estates; (c) trustees of trusts for the benefit of natural persons, if such trustees are either (i) natural persons or (ii) banks or trust companies which either have their principal place of business in Oklahoma or are organized under the laws of the State of Oklahoma; or (d) corporations owned by no shareholders other than those described in paragraph 1 (a), (b) or (c) of this section and meeting the requirements of paragraph 3 of this section.
2. Not more than thirty-five percent (35%) of the corporation's annual gross receipts shall be from any source other than (a) farming or ranching or both, as the case may be, or (b) allowing others to extract from the corporate lands any minerals underlying the same, including, but not limited to, oil and gas. Provided, however, in the event a corporation does not comply with the thirty-five percent (35%) annual gross receipt test, then, in that event the corporation may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of said annual gross receipts shall be used in lieu of the corporation's annual gross receipts for purposes of complying with this section.
3. Except as otherwise provided in this paragraph, there shall not be more than ten shareholders unless said shareholders in excess of ten are related as lineal descendants or are or have been related by marriage to lineal descendants or persons related to lineal descendants by adoption or any combination of same. For a corporation incorporated for the purpose of breeding horses, there shall not be more than twenty-five shareholders.



4. Certificates of incorporation for domestic corporations which intend to engage in farming or ranching or owning or leasing any interest in land to be used in the business of farming or ranching shall initially be approved by the State Board of Agriculture concerning the purpose prior to filing in the office of the Secretary of State. No stated purpose is to be disapproved by the Board of Agriculture unless such stated purpose violates existing civil or criminal code.

B. The Secretary of State shall provide the State Department of Agriculture a list of corporations registering in the state that list farming or ranching or owning or leasing any interest in land to be used in the business of farming or ranching at least weekly.

§ 952. Revocation of License—Vacation of Franchise—Penalties

A. Any license issued after June 1, 1971, under the Oklahoma Business Corporation Act to a foreign corporation for the purpose of engaging in farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching shall be revoked within five (5) years of the effective date of this act.

B. The corporate franchise of any existing domestic corporation formed under the Oklahoma Business Corporation Act after June 1, 1971, for the purpose of engaging in farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching shall be vacated within five (5) years of the effective date of this act unless its articles of incorporation comply with Section 951 of this title.

C. The corporate franchise of any domestic corporation governed by the Oklahoma General Corporation Act formed for the purpose of farming or ranching or for the purpose of owning or leasing any interest in land to be used in the business of farming or ranching and permitted to engage in such activity under this act shall be vacated promptly in the manner prescribed by Section 104 of this act, if the corporation has persistently violated the provisions of subsection A of Section 951 of this title.

D. The State Board of Agriculture shall initiate and prosecute civil or criminal actions and proceedings when deemed necessary to enforce or carry out any of the provisions of this code.

E. This act shall not require any foreign or domestic corporation to dispose of any property acquired on or before June 1, 1971.

F. Any farming or ranching corporation which violates the provisions of Section 951 of this title shall be fined an amount not to exceed Five Hundred Dollars (\$500.00). Any other person, corporation or entity who knowingly violates such section shall be deemed guilty of a misdemeanor.

§ 953. Actions for divestment of interest in land held by corporation—Exemptions—Dissolution of Corporation

A. No corporation organized for a purpose other than farming or ranching shall own, lease or hold, directly or indirectly, agricultural lands in excess of that amount reasonably necessary to carry out its business purpose.



B. Any resident of the county in which the land is situated, who is of legal age, may initiate an action for the divestment of an interest in land held by a corporation in violation of the provisions of Sections 951 through 954 of this title, in the county in which the land is situated. If such action is successful all costs of the action shall be assessed against the defendant corporation, and a reasonable attorney's fee shall be allowed the plaintiff. Should judgment be rendered for the defendant, such costs and a reasonable attorney's fee for the defendant shall be paid by the plaintiff.

C. In the event an action for the divestment of an interest in land held by a corporation in violation of the provisions of Sections 951 through 954 of this title is successful against said corporation, said corporation shall be required to dispose of said land within such reasonable period of time as may be ordered by the court, subject to the corporation's right of appeal. Except as otherwise provided by Section 954 of this title, the provisions of Sections 951 through 954 of this title shall not apply to corporations engaging in food canning operations, food processing or frozen food processing insofar as such corporations engage in the raising of food products for aforesaid purposes.

D. Upon the petition to a court of competent jurisdiction by shareholders holding twenty-five percent (25%) or more of the shares in a farming or ranching business corporation the court in its discretion, for good cause shown, may order the corporation dissolved and the assets of such corporation divided in kind pro rata to the shareholders or liquidated and the proceeds of such liquidation divided pro rata to the shareholders all according to the procedures specified for the dissolution and liquidation of business corporations under the Oklahoma General Corporation Act [Okla. Stat. Ann. tit. 18, § 1001 et seq.].

§ 954. Exemptions

The provisions of Section 951 et seq. of this title shall not apply where a corporation, either domestic or foreign:

1. Engages in research and/or feeding arrangements or operations concerned with the feeding of livestock or poultry, but only to the extent of such research and/or feeding arrangements or such livestock or poultry operations;
2. Engages in operations concerned with the production and raising of livestock or poultry for sale or use as breeding stock and including only directly related operations, such as breeding or feeding livestock or poultry which are not selected or sold as breeding stock;
3. Engages in swine operations, including only directly related operations, such as facilities for the production of breeding stock, feed mills, processing facilities, and providing supervisory, technical and other assistance to any other persons performing such services on behalf of the corporation;
4. Engages in poultry operations, including only directly related operations, such as operating hatcheries, facilities for the production of breeding stock, feed mills, processing facilities, and providing supervisory, technical and other assistance to any other persons performing such



services on behalf of the corporation to the extent of such operations in this state by the corporation on the effective date of this act;¹

5. Engages in forestry as defined by Section 1-4 of Title 2 of the Oklahoma Statutes;
6. Whose corporate purpose is charitable or eleemosynary; or
7. Presently engages in fluid milk processing within the State of Oklahoma or leases to a fluid milk processor so engaged; provided, this exception is limited to such dairy operations as are necessary to meet such processor's needs.

§ 954.1. Application of sections 951 through 956 — Production of Nursery Stock

The provisions of Sections 951 through 956 of Title 18 of the Oklahoma Statutes shall not apply if a corporation, partnership, limited liability company, or other legal entity, either domestic or foreign engages in the production of nursery stock, as defined in Section 3-11 of Title 2 of the Oklahoma Statutes.

§ 955. Limitations on ownership—Exceptions

A. No person, corporation, association or any other entity shall engage in farming or ranching, or own or lease any interest in land to be used in the business of farming or ranching, except the following:

1. Natural persons and the estates of such persons;
2. Trustees of trusts; provided that:
 - a. each beneficiary shall be a person or entity enumerated in paragraphs 1 through 5 of this subsection, and
 - b. there shall not be more than ten beneficiaries unless the beneficiaries in excess of ten are related as lineal descendants or are or have been related by marriage or adoption to lineal descendants, and
 - c. at least sixty-five percent (65%) of the trust's annual gross receipts shall be derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the trust. If the trust cannot comply with the annual gross receipts test, the trust may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of such annual gross receipts may be used for purposes of complying with this section;
3. Corporations, as provided for in Sections 951 through 954 of this title, or as otherwise permitted by law;
4. Partnerships and limited partnerships; provided that:
 - a. each partner shall be a person or entity enumerated in paragraphs 1 through 5 of this subsection, and
 - b. there shall not be more than ten partners unless said partners in excess of ten are related as lineal descendants or are or have been related by marriage or adoption to lineal descendants, and



c. at least sixty-five percent (65%) of the partnership's annual gross receipts shall be derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the partnership. If the partnership cannot comply with the annual gross receipts test, the partnership may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of such annual gross receipts may be used for purposes of complying with this section;

5. Limited liability companies formed pursuant to the Oklahoma Limited Liability Company Act;¹ provided that:

a. each member shall be a person or entity enumerated in paragraphs 1 through 5 of this subsection, and

b. there shall not be more than thirty members unless said members in excess of thirty are related as lineal descendants or are or have been related by marriage or adoption to lineal descendants, and

c. at least sixty-five percent (65%) of the limited liability company's annual gross receipts shall be derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the limited liability company. If the limited liability company cannot comply with the annual gross receipts test, the limited liability company may furnish records of its gross receipts for each of the previous five (5) years, or for each year that it has been in existence if less than five (5) years, and the average of such annual gross receipts may be used for purposes of complying with this section.

B. Any farming or ranching corporation, trust, partnership, limited partnership, limited liability company or other entity which violates any provisions of this section shall be fined an amount not to exceed Five Hundred Dollars (\$500.00). Any other person or entity who knowingly violates this section shall be deemed guilty of a misdemeanor.

C. The provisions of this act² shall not apply to interests in land acquired prior to June 1, 1978.

§ 956. Action of divestment—Cost—Attorney fees

A. Any resident of the county in which the land is situated, who is of legal age, may initiate an action in the district court in the county wherein the land is situated for the divestment of an interest in land held in violation of Section 1 of this act.¹ If such action is successful, all costs of the action shall be assessed against the defendant and a reasonable attorney fee shall be allowed the plaintiff, and, should judgment be rendered for the defendant, such costs and a reasonable attorney fee for the defendant shall be paid by the plaintiff.

B. In the event an action for the divestment of an interest in land held in violation of Section 1 of this act is successful, the defendant shall be required to dispose of said land within such reasonable period of time as may be ordered by the court, subject to the right of appeal of said defendant.



§ 121. Alien may not hold land—Ownership of personalty

No alien or any person who is not a citizen of the United States shall acquire title to or own land in the State of Oklahoma, except as hereinafter provided, but he shall have and enjoy in the State of Oklahoma such rights as to personal property as are, or shall be accorded a citizen of the United States under the laws of the nation to which such alien belongs, or by the treaties of such nation with the United States, except as the same may be affected by the provisions of this act¹ or the Constitution of this state.

§ 122. Exceptions

This article [R.L. 1910, c. 65, art. 3, title 60, § 121 et seq.] shall not apply to lands now owned in this state by aliens so long as they are held by the present owners, nor to any alien who is or shall take up bona fide residence in this state: and any alien who is or shall become a bona fide resident of the State of Oklahoma shall have the right to acquire and hold lands in this state upon the same terms as citizens of the State of Oklahoma during the continuance of such bona fide residence of such alien in this state: Provided, that if any such resident alien shall cease to be a bona fide inhabitant of this state, such alien shall have five (5) years from the time he ceased to be such bona fide resident in which to alienate such lands.

§ 123. Five-year limitation in certain cases

All nonresident aliens who may hereinafter acquire real estate in Oklahoma by devise, descent or by purchase, where such purchase is made under any legal proceeding foreclosing liens in favor of such alien, may hold the same for five (5) years from the date of so acquiring such title.

§ 124. Escheat to state, unless conveyance made

Any alien who shall hereafter hold lands in the State of Oklahoma in contravention of the provisions of this article, may nevertheless convey the fee simple title thereof at any time before the institution of escheat proceedings as hereinafter provided: Provided, however, that if any such conveyance shall be made by such alien either to an alien or a citizen of the United States in trust, and for the purpose and with the intention of evading the provisions of this article, or the provisions of the Constitution of this state, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheated to the state absolutely.

§ 125. Procedure to enforce escheat

It shall be the duty of the Attorney General or the district attorney of the county where the land is situate, when he shall be informed or have reason to believe that any lands in the state are being held contrary to the provisions of this act [Laws 1907-08, c. 49, p. 481, title 60, § 121 et seq.], or the provisions of the Constitution of this state, to institute suit in behalf of the State of Oklahoma in the district court of the county in which said lands are situate, praying for the escheat of the same in behalf of the state, and proceed therein as in cases provided by law for escheats of lands or property where such property has no known owner: Provided, that before any such suit is instituted, the Attorney General, or district attorney aforesaid, as the case may be, shall give thirty (30) days' notice by registered letter of his intention



to sue, directed to the owner of the lands, at his last-known post office address or to the persons who last rendered the same for taxes, or to any known agents of the owner; proof of having mailed such registered letter shall be deemed and held prima facie evidence of the giving of such notice.

§ 126. Procedure—Minors and incompetents as defendants

In case the lands, at the time escheat proceedings are about to be commenced, are owned by minors, or by persons of unsound mind, such notice shall be addressed to the guardian of the said minors, or persons of unsound mind, and if there is no such guardian, the Attorney General of the state, or district attorney shall make application in the name of the state to the court and procure the appointment of a guardian ad litem to represent such minor, or person of unsound mind in such proceedings; thereafter the district attorney shall direct the clerk of such court to ascertain the residence or post office address of the next of kin of such minor, or person of unsound mind, and to transmit to such next of kin a copy of the petition or application to escheat such lands, and such minor or person of unsound mind shall have ninety (90) days after the mailing of such notice to appear and defend the action.

§ 127. Trial and judgment

If it shall be determined upon the trial of any such escheat proceedings that lands are held contrary to the provisions of this article, or the Constitution of this state, the court trying said cause shall render judgment condemning such lands, and order the same to be sold under the order of court, at such time, terms, and conditions as to the court may seem best; the proceeds of such sale after deducting the cost of the proceeding, shall be paid to the clerk of the court rendering the judgment where the same shall remain for one (1) year from the date of such payment, subject to the order of the alien owner of such lands, his heirs and legal representatives, and if not claimed within the period of one (1) year, such clerk shall pay the same into the treasury of the state for the benefit of the available school fund of the state: Provided, that when any money shall have been paid to the State Treasurer as hereinabove provided, an alien or his heirs may procure the same to be returned by applying for and procuring an order from the court condemning the property showing that such judgment escheating said property was procured by fraud, or mistake, or that there was material irregularity in the proceedings; this application, however, must be made within two (2) years from the date such monies were turned over into the State Treasury; and in no event shall the state be liable or called on to refund any further sum than the actual cash transmitted and delivered to such Treasurer; Provided, further, that the defendant in such escheat proceedings may at any time before final judgment suggest and prove to the court, that he has conformed to, or complied with the law, under and by which they will be entitled to hold such estate; which, it being admitted or proved, said suit shall be dismissed on payment by defendant of the costs and reasonable attorney's fees, to be fixed by the court.

