



# The National Agricultural Law Center

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



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# A National Agricultural Law Center Research Publication

## Farm Ownership & Corporate Farming Laws: Wisconsin

### Fast Find:

- 1) Prohibition: Wis. Stat. § 710.02
- 2) Permission: Wis. Const. art. I, § 15; Wis. Stat. §§ 710.01, 710.03
- 3) Reporting: Wis. Stat. § 710.02
- 4) Corporate Farming: Wis. Stat. §§ 182.001; 710.02

### [Wis. Const. art. I, § 15](#)

### [Wis. Stat. § 182.001](#)

### [Wis. Stat. § 710.01](#)

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### [Wis. Stat. § 710.03](#)

*Current through laws passed by the 2021 Regular Session (Act 267) of the Wisconsin State Assembly, published April 16, 2022.*

### **Art. I, § 15. Equal property rights for aliens and citizens**

No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

### **§ 182.001. Corporations and trusts prohibited from owning or carrying on farming operations**

(1) Prohibition. No corporation or trust may own land on which to carry on farming operations under sub. (3) or carry on farming operations under sub. (3), unless the corporation or trust meets the following standards:

(a) Its shareholders or beneficiaries do not exceed 15 in number. Lineal ancestors and lineal descendants, whether by blood or by adoption, and aunts, uncles and 1st cousins thereof count collectively as one shareholder or beneficiary for purposes of this paragraph, but this collective authorization shall not be used for more than one family in a single corporation or trust.

(b) It does not have more than 2 classes of shares.

(c) All its shareholders or beneficiaries, other than any estate, are natural persons.



(2) Exception.

(a) Notwithstanding the prohibition in sub. (1), a corporation or trust may own land on which to carry on farming operations if the land is acquired by bequest or devise or is acquired in the regular course of business in partial or full satisfaction of any mortgage, lien or other encumbrance held or owned by the corporation or trust on the land, provided the land is sold or otherwise transferred within 5 years after such acquisition and provided the sale or transfer can be made at fair market value.

(b) This section does not apply to a small business investment corporation, or to any corporation acting as a personal representative or trustee or in any similar fiduciary capacity where the trust meets the standards under sub. (1).

(c) This section does not apply to land:

1. Owned by a corporation on June 5, 1974.

2. Acquired by a corporation in the normal expansion of land owned by the corporation and used for agricultural purposes on June 5, 1974, provided that such expansion does not increase the acreage of such land by more than 20 percent in any 5-year period.

3. Acquired by a corporation to meet pollution control requirements.

4. Owned by a trust on May 27, 1978.

(d) This section does not apply to farms engaged primarily in research, breeding operations or the production of any crop primarily for seed.

(e) This section does not apply to agricultural land acquired by a corporation or trust for expansion or other corporate or trust business purposes and such land may be used for farming operations if leased to a person not prohibited from engaging in farming operations under sub. (3).

(f) This section does not apply to the use of land prohibited under sub. (3) when such use is incidental to the principal purpose for which the property is held and which purpose is not prohibited by sub. (3).

(3) Prohibited activities. Those farming operations prohibited under this section are the production of dairy products not including the processing of such dairy products; the production of cattle, hogs and sheep; and the production of wheat, field corn, barley, oats, rye, hay, pasture, soybeans, millet, sorghum, and hemp.

(4) Penalty for noncompliance. Any corporation or trust violating this section or any injunction or order issued under this section shall forfeit not more than \$1,000 for each violation. Each day of violation shall constitute a separate offense. In addition, the district attorney of any county in which a corporation or trust has acquired land on which to carry on farming operations or in which a corporation or trust commences farming operations shall bring an action to enjoin such operations when it appears there is probable cause to believe that a violation of this section has occurred. The court may permit normal farming operations to be carried on



when necessary to prevent loss or damage in any instance arising under this subsection. The action also shall request a court order requiring the corporation or trust to divest itself of such land within a reasonable period of time.

### **§ 710.01. Aliens may acquire lands**

Subject to the limitations of s. 710.02 an alien may acquire and hold lands or any right thereto or interest therein by purchase, devise or descent, and the alien may convey, mortgage and devise the same; and if the alien shall die intestate the same shall descend to the alien's heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised or shall descend in like manner and with like effect as if such alien were a native citizen of the state or of the United States.

### **§ 710.02. Limitation on nonresident aliens and corporations**

(1) Limitation. The following persons may not acquire, own or hold any interest, directly or indirectly, except an interest used to secure repayment of a debt incurred in good faith, in more than 640 acres of land in this state:

(a) Aliens not residents of a state of the United States.

(b) Corporations not created under the laws of the United States or a state of the United States.

(c)1. Corporations, limited liability companies, partnerships or associations having more than 20 percent of their stock, securities or other indicia of ownership held or owned by persons under par. (a) or (b).

2. Trusts having more than 20 percent of the value of their assets held for the benefit of persons under par. (a) or (b).

(2) Exceptions. Except as provided in sub. (3), sub. (1) does not apply to:

(a) Subject to sub. (5), any person acquiring an interest in land by devise, inheritance or in the good faith collection of debts by due process of law.

(b) Citizens, foreign governments or subjects of a foreign government whose rights to hold larger quantities of land are secured by treaty.

(c) Railroad or pipeline corporations.

(d) An exploration mining lease as defined in s. 107.001(1) and land used for mining and associated activities under chs. 293 and 295.

(e) Manufacturing activities specified under division D of the standard industrial classification manual published by the U.S. printing office, 1972 and later editions.

(f) Mercantile activities specified under divisions C, E, F, G, H and I of the standard industrial classification manual published by the U.S. printing office, 1972 and later editions.



(g) Leases for exploration or production of oil, gas, coal, shale and related hydrocarbons, including by-products of the production, and land used in connection with the exploration or production.

(3) Use of land restricted. Land in excess of 640 acres, acquired by a person listed under sub. (1) other than a person listed under sub. (2)(a), (b) or (c) for an activity listed under sub. (2)(d), (e), (f) or (g), may not be used directly or indirectly by that person for any activity not under sub. (2)(d), (e), (f) or (g). Pending the conversion and development of the land for a purpose permitted under sub. (2)(d), (e), (f) or (g), it may be used for agriculture or forestry purposes under a lease to a person not subject to sub. (1). Products of the land may be sold by the lessee to the owner of the land.

(4) Reporting requirements.

(a) Any person filing a report required under 7 USC 3501 to 3508 shall file with the secretary of agriculture, trade and consumer protection a duplicate original of the report, together with both of the following:

1. The tax parcel number or full legal description of the lands acquired, owned or held.

2. If the interest in land is acquired, owned or held under an exception set forth in sub. (2), a statement which sets forth the specific exception and, if under sub. (2)(d), (e), (f) or (g), the timetable and plan for conversion and development to a purpose permitted under sub. (2)(d), (e), (f) or (g).

(b) The secretary shall annually submit to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172(3), a report summarizing information received under par. (a).

(5) Divestiture.

(a) Interests exceeding 640 acres acquired by persons under sub. (1) shall be divested at the discretion of the holder to comply with sub. (1) within 4 years after:

1. Acquiring the interest, if the interest is described under sub. (2)(a) and the person is subject to sub. (1)(a) or (b).

2. Acquiring the interest or becoming subject to sub. (1)(c), whichever is later, if the person is subject to sub. (1)(c).

(b) Land subject to divestiture under par. (a) may not be managed to cause undue levels of soil erosion or to injure the long-range productivity of the land. The attorney general may bring an action to enjoin these practices on the land.

(6) Forfeitures. Interests in lands in excess of 640 acres acquired or held in violation of this section are forfeited to the state. The holder of the interest shall determine which lands are to be forfeited to comply with sub. (1).

(7) Penalty for failure to report. Any person violating sub. (4)(a) shall forfeit not less than \$500 nor more than \$5,000.



(8) Enforcement. The attorney general shall enforce this section.

(9) Applicability. This section applies to interests in land acquired after July 1, 1982. No interest acquired before July 1, 1982, is subject to divestiture or forfeiture under this section.

**§ 710.03. Provision not retroactive**

The title to any lands conveyed before May 3, 1887, or any lands which nonresident aliens may hold under s. 710.02 conveyed since that date, shall not be questioned nor in any manner affected by reason of the alienage of any person from or through whom such title may have been derived.

