



Farmland Ownership in Saskatchewan

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Farmland Ownership Legislation in Saskatchewan

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 - Investment in farmland
 - Changes in 2015/2016
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Farm Ownership Legislation

- Province and prairie history shows federal and provincial policies to encourage residency and ownership of agricultural land. (Homestead grant era.)
- Great Depression resulted in very low demand for land with no fear of non-resident ownership.
- No legislation regarding foreign ownership until 1974, when *The Saskatchewan Farm Ownership Act (Act)* was proclaimed.

Farm Ownership Legislation

- The amendments to *The Saskatchewan Farm Security Act* (Act) were proclaimed in 2003 with the following changes:
 - No restriction on Canadians owning Saskatchewan farmland.
 - No restriction on 100 per cent Canadian-owned corporations owning farmland.
 - Non-resident persons and non-Canadian-owned companies continue to be restricted to owning 10 acres.
 - Publicly traded companies are considered non-Canadian-owned.

Farmland as an Investment!

- Significant increase from interested investors to own farmland and rent out.
- Farm Land Security Board was dealing with a variety of different proposals regarding the purchase and/or financing of farmland.
- Existing legislation/regulations lacked clarity (i.e. Canada Pension Plan Investment Board (CPPIB) vs other pension plans).
- Minister proposed short-term solution, amendments to the Regulations to be followed by a full review and consultation with stakeholders.

2015 Regulation Amendments

- Amendments completed in April 2015 to provide some clarity to the legislation:
 - Pension plans, administrators of pension plans and trusts with more than 10 beneficiaries considered non-Canadian-owned entities.
 - “land holding” includes any interest held by way of a debt or obligation funded other than by:
 - A resident;
 - A bank , credit union or other financial institution.

Consultation Process

- Minister announced a public consultation process on May 20, 2015, including an online survey.
- Survey requested feedback on:
 - Who should be eligible to own farmland.
 - Who should be eligible to provide financing for farmland.
 - Should the Government do more to enforce compliance of farmland ownership rules.
- Survey open until August 10, 2015.

Survey Results

- 27 organizations attended meetings and provided feedback.
- 3200 surveys were completed.
 - 94.5% of respondents were Saskatchewan residents.
 - 62.2% were farmers, with an additional 15.3% current farmland owners.
 - Even split on the size of farming operations that responded.

Survey Results

- 87% do not support foreign ownership.
- 75% do not support allowing Canadian pension funds or larger Canadian investment trusts to purchase farmland.
- 69.2% do not support foreign investors providing financing for the purchase of farmland.
- 85.2% support the Government of Saskatchewan taking a more active role in ensuring compliance on farmland transactions.

Amendments to *The Saskatchewan Farm Security Act and Regulations*

- Bill 187 was proclaimed on January 4, 2016.
- Changes include:
 - Section 89 - Making pensions, administrators of pensions, and investment trusts ineligible.
 - Section 76 - Clarification of capital appreciation being an “interest in farmland”.
 - Section 2 (Regulations) - Require financing for farmland to be done through a financial institution or a Canadian.

Amendments to *The Saskatchewan Farm Security Act*

- Farm Land Security Board (FLSB) will receive new and expanded authority:
 - Section 90 - A requirement for a mandatory completion of a statutory declaration, when requested.
 - Section 92.1 - Place the onus to prove compliance with the Act on the purchaser.
 - Section 93 - Increase fines – up to to \$50,000 for individuals and \$500,000 for corporations.
 - Section 93.1 - Authorization to impose administrative penalties, up to \$10,000.

Farm Land Security Board Operations

- Board decisions will be provided within five days after the board meeting.
- All decisions of the Board will be posted at www.farmland.gov.sk.ca.
- Exemptions have been approved for:
 - Non-Canadians intent to become Canadians;
 - Commercial developments;
 - Mining and petroleum developments;
 - Inheritance and estate planning.

Farmland Ownership Exemptions.

- Section 91 of the Act provides the FLSB with the ability to grant an exemption for non-Canadians to own farmland in Saskatchewan.
- Staff review applications and prepare a summary for the FLSB. Additional information may be requested. Applications should be received by the FLSB as at least two days prior to the meeting.
- The FLSB reviews application and with makes decision or tables until next meeting.
- Generally applications received from lawyers have all the required information and allow the FLSB to make a timely decision.
- Applicants can request an opportunity to present their application, or the FLSB can invite applicant to clarify questions they may have.

Statutory Declarations

- Section 90 of the Act – Declarations are required, if requested by the Board.
- Request has been made for lawyers to complete at the time of the transaction where a third party sale has been completed.
- FLSB will generally not require declaration where third party sale did not occur (estate planning, corporation set up).
- Recommend completion at the time of the transfer when clients are present.
- FLSB, if not received, may send a request to the purchaser to complete the declaration.

Statutory Declarations

- FLSB will track who a declaration has been received from. It would be unlikely a land owner will be requested to complete a declaration if there is a recent declaration (within three years) on file.
- Declarations can be sent in for every transaction.
- Board has ability to administer fines – could look at for not completing a declaration when a request has been made.
- Section 93.1 of the Act provides for a fine of up to \$10,000 for an administrative penalty.

Financing farmland in Saskatchewan

- Section 2 of the Regulations state financing must be from a:
 - Canadian;
 - Bank, credit union, or other financial institution that is supervised by a governmental authority in Canada.
- All other financing would be considered a “land holding” under the Act. If this is contemplated, an exemption would be required.
- The FLSB will continue to request information on where land owners obtained funds for the purchase of the land.

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Going Forward

- FLSB will have more tools to ensure compliance.
- Information Services Corporation records will still be reviewed.
- If there are concerns in a client complying with the Act – contact our office at 306-787-5153 or mfolk@farmland.gov.sk.ca. We will take a look!

Farm Land Security Board

- 306-787-5153
- www.farmland.gov.sk.ca




