



Since 1894

To: The Senate Natural Resources Committee
Senator Larry Powell, Chair

From: Mike Beam, Kansas Livestock Association

Re: Testimony in support of Senate Bill No. 191, a bill repealing restrictions on corporations owning agricultural land and operating agricultural production facilities.

Date: March 7, 2013

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,500 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seedstock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.

Mister Chairman and committee members, the Kansas Livestock Association supports HB 191. This bill would:

- a) repeal restrictions on certain corporations, limited liability companies, limited partnerships and corporate partnerships owning agricultural land in Kansas;
- b) repeal statutes requiring county-by-county approval for an unauthorized corporation or limited liability company to hold or lease agricultural land for use as a swine production facility or dairy production facility; and
- c) expressly authorize any agricultural business entity to conduct agricultural business and establish agricultural operations anywhere in Kansas.

It's important to note the current farm corporation law, and SB 191, has no prohibition on size of operations permitted in Kansas. The law, and SB 191, addresses the corporate structure of entities allowed to operate in this state.

KLA-supported 1981 rewrite of corporate farm law

The last major reform or overhaul of the Kansas corporate farm law was in 1981 (SB 298). The impetus for the Legislature to rewrite this law was a determination by the Kansas Attorney General that several agricultural landowners were not in compliance with the law. In addition, the pre-1981 corporate farming laws were a product of the 1965 Legislature and had become too restrictive for agricultural landowners who had grown their operations and/or chose to use a corporate business structure for their farming and ranching business. These restrictions included a 5,000 acre limitation for permitted corporations, a limit of 10 stockholders, and a determination that nonagricultural corporations (DuPont) illegally owned land as a buffer or for future expansions.

For these reasons, KLA and others in the agriculture/business community were proponents of updating the corporate farming statute in 1981. The result was the passage of legislation with 13 exemptions to the corporate ownership restrictions.

SEN.NATURAL RESOURCES

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Date 3-8-13
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What's changed since 1981?

As we fast-forward 32 years since the last corporate farming overhaul, we contend there have been even more changes in agriculture and the state's corporate ownership restrictions are outdated and unnecessary.

During the early 1980s producers were faced with declining commodity prices, depressed land values and 20% interest rates. A considerable amount of land changed hands during this time period as many producers no longer were able to service debt and were forced to sell part or all of their land holdings. If there was ever a time to be concerned about large corporate entities buying up land from local, family-based operations it was the five to 10 years following the 1981 rewrite of the corporate farm laws.

Fortunately, farmers and ranchers are in a much sounder financial situation today. The farm debt-to-asset ratio has been steadily declining since 1985's peak value of 23% - except for a one-year reversal in 2008 - to a projected historic low of 10.5% in 2012.¹ If you ask realtors and agricultural lenders, they report that buyers at farm and ranch land auctions today are often existing agricultural producers who don't always need financing for their purchases.

Another change since 1981 to consider is the evolution of new generations of agricultural producers during this 32-year time lapse. As more family members assume or inherit ownership of a farm or ranch operation, it becomes more difficult to comply with the definition of eligible agricultural entities that can own land, such as Family Farm Corporations, Authorized Farm Corporations, Limited Liability Agricultural Companies, and Family Farm Limited Liability Agricultural Companies. Repealing the corporate farm statutes will provide multi-generational farm and ranch families an easier environment for succession planning.

Court decisions since 1981, in states with similar corporate farming prohibitions, cast doubt on the constitutionality of Kansas law regarding agricultural land ownership. This doubt recently has surfaced with the January 2, 2013, Kansas Attorney General opinion. We contend it's necessary for the Kansas Legislature to act, and the most appropriate action is to repeal the corporate farming restriction statutes as they no longer are necessary or appropriate.

On a final note, we'd like to express support for the repeal of the sections KSA 17-5907 and KSA 17-5908 that require county approval for corporations (other than those included in KSA 17-5904) to operate dairy production facilities and swine production facilities. These types of businesses, regardless of their corporate structure, are regulated by the Kansas Department of Health and Environment for environmental impacts. These regulations include separation distances between new facilities and habitable structures. Let's omit the county-by-county approval process and make our state laws more inviting to entities wanting to locate their business in this state.

In conclusion, KLA believes the time is right to repeal of our state's corporate farming restrictions. We urge this committee to give favorable consideration to SB 191.

Thank you

¹ U.S. Farm Income, Congressional Research Service, December 10, 2012