



# Saskatchewan Farmland Ownership

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# Purpose and Public Involvement

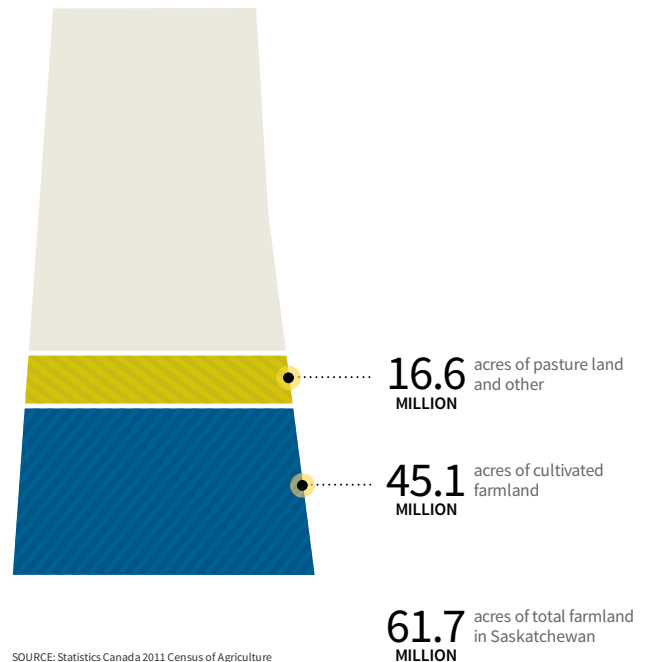
Rules around who can own Saskatchewan farmland have been in place for about 40 years, with the last significant change to the legislation occurring in 2002. Given the rapid appreciation of Saskatchewan farmland values over the last few years, current farm ownership provisions have been receiving more attention as farmland is viewed as an attractive investment choice. As with other sectors of the economy, agriculture continues to change and evolve. Farmers are looking to grow, innovate, become more efficient and better manage risk.

Against this backdrop, some Canadian pension plans, and other investors, have expressed interest in holding Saskatchewan farmland as an investment in their portfolio and are looking to partner with individual producers. Additionally, there have been some increasingly complex structures proposed by producers and investors to either own, or have an interest in, Saskatchewan farmland.

This increased interest from institutional and out-of-province farmland investors has resulted in public discussion about the current farm ownership provisions, compliance with the Act and the province's ability to monitor and consistently enforce the rules. Concern has also been raised regarding Canadians owning farmland on behalf of non-Canadians through loans, mortgages, or other types of agreements.

At its simplest, farmland ownership is about who should be allowed to own farmland in Saskatchewan – trusts, pension plans, Canadian entities, Canadian individuals or non-Canadians. All of these are potential options that must be considered. A broader scope adds more layers to the issue – that of access to financing, how farm operations are structured and a farmer's right to choose what they do with the land they own and Government's role in this issue.

## Farmland in Saskatchewan



As there are differing views on this matter, the Government of Saskatchewan is holding consultations and undertaking a review of farmland ownership rules under *The Saskatchewan Farm Security Act*. The Government wants to hear from farmers and ranchers, Canadian investors and other interested Saskatchewan residents and businesses. The purpose of the public consultations is to determine whether amendments to legislation are required.



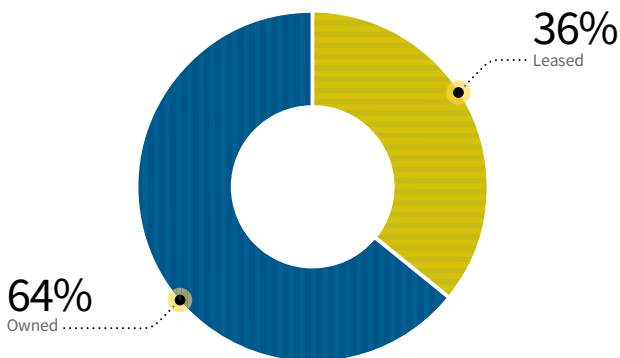
# History of the Farm Ownership Provisions of the Legislation

Prior to 1974, Saskatchewan had no restrictions on who could own farmland, as traditionally there was little interest in Saskatchewan farmland by non-residents. At that time, most of the land was owned by owner operators, retired farmers, and relatives of farmers or residents in the local community.

The passage of *The Saskatchewan Farm Ownership Act* in 1974 prohibited non-Saskatchewan residents from owning land. The original intent of the 1974 ownership provisions were developed on the premise that the Saskatchewan residents who were involved in day-to-day agricultural operations and who spend a major part of their time and agricultural income in the province should control agricultural resources.

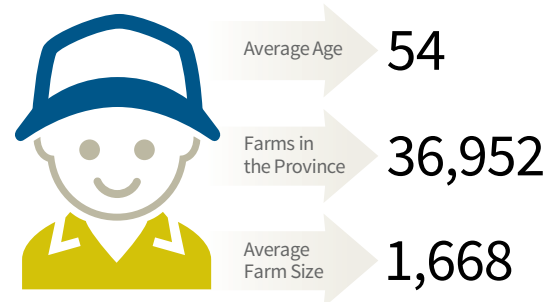
Under the 1974 farmland ownership rules, non-residents and non-agricultural corporations were prohibited from owning more than 160 acres. Current non-resident landowners were grandfathered and did not have to dispose of land already held.

## Owned vs. Leased Land Farmed in Saskatchewan



SOURCE: Statistics Canada 2011 Census of Agriculture

## Farmers in Saskatchewan

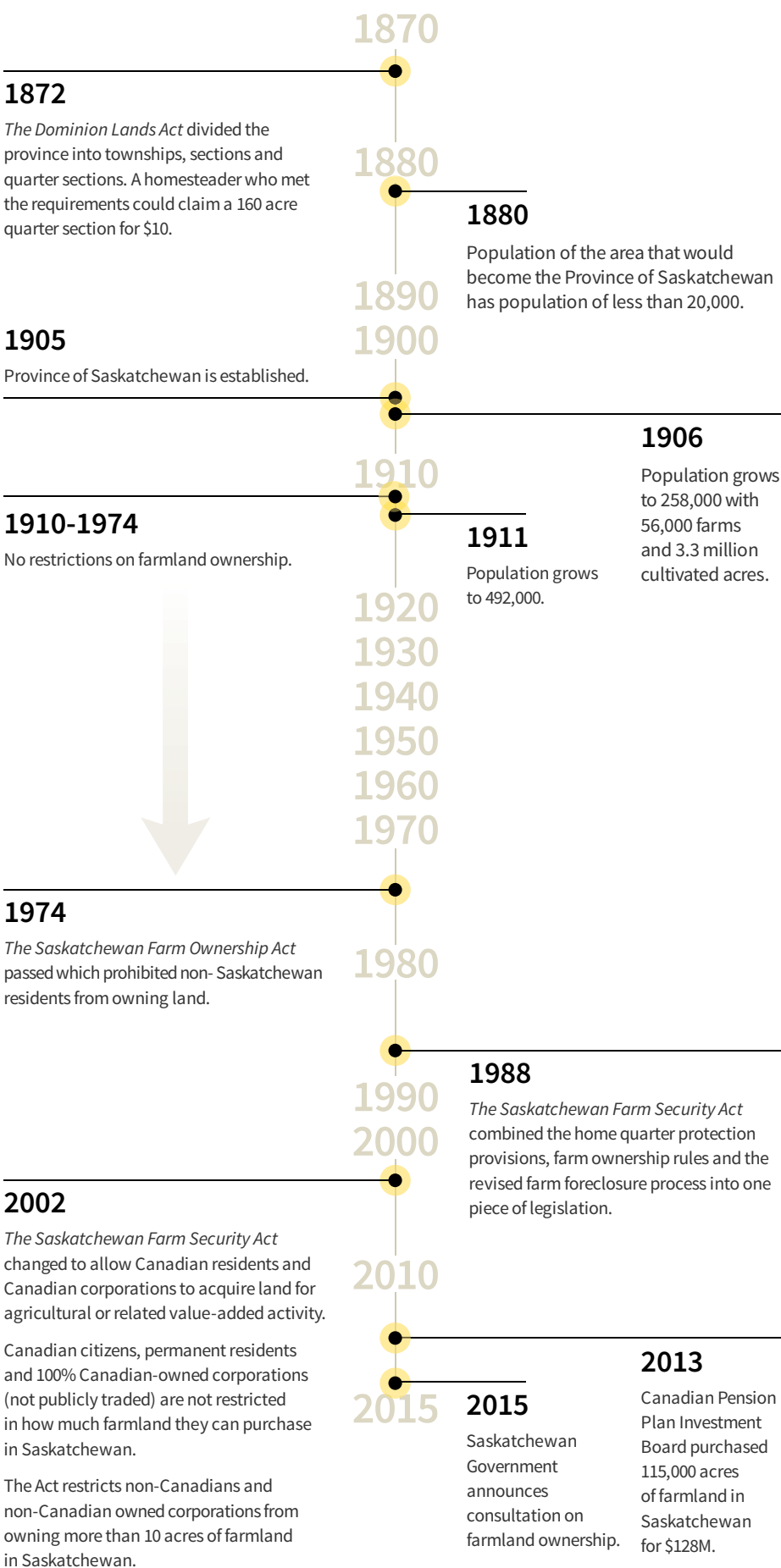


SOURCE: Statistics Canada 2011 Census of Agriculture

In 1988, *The Saskatchewan Farm Security Act* combined the home quarter protection provisions (originated in the 1930's), farm ownership rules (*The Saskatchewan Farm Ownership Act* 1974), and the revised farm foreclosure process (1988) into one piece of legislation.

In 2002, amendments modernized *The Saskatchewan Farm Security Act* and aligned Saskatchewan's rules closer to those of Alberta and Manitoba. The changes removed the distinction between Saskatchewan and other Canadian residents as well as other Canadian corporations acquiring land for agricultural or related value-added activity.

## History of Farm Ownership in Saskatchewan



# Current Situation

The rules have remained the same since 2002.

- Canadian citizens and permanent residents of Canada are not restricted in how much farmland they can buy in Saskatchewan. Neither are 100-per-cent- Canadian-owned corporations that are not publicly traded.
- The Act restricts non-Canadians and non-Canadian owned corporations from owning any more than 10 acres of farmland in Saskatchewan. By definition, publicly traded entities are defined as non-Canadian.
- Pension plans and investment trusts are not included in the definition of Canadian-owned entity.
- There is a provision in the Act that says partially foreign-owned entities actively engaged in the business of farming may own up to 320 acres of farmland, if the majority of shares are owned by Saskatchewan residents. However, regulations also stipulate that each non-Canadian shareholder's equivalent share of land owned cannot exceed 10 acres. This provision has rarely, if ever, been used.
- The Farm Land Security Board has the authority to grant exemptions.

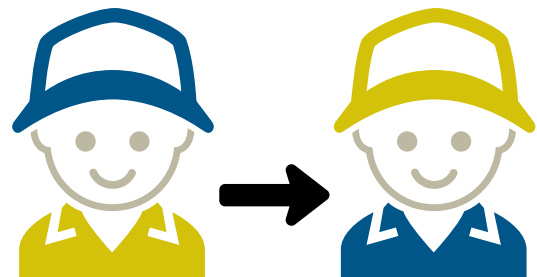
The Canada Pension Plan Investment Board (CPPIB) does own Saskatchewan farmland, as the assets of the Canada Pension Plan are held and managed by the CPPIB, which is deemed to be a qualified Canadian-owned entity under the Act.

Other investors (eg. pension plans, administrators of pension plan assets, investment trusts and funds obtained through public offerings) have expressed interest in farmland in Saskatchewan. Government wants to better understand the views of producers, businesses and investors on this issue. While the consultations are underway, regulations were put in place to pause any further land transactions by these types of organizations.

The regulations announced on April 13, 2015 clarify the original intent of the legislation and will be in place for the duration of the review. The regulations prohibit pension plans, administrators of pension plans and investments trusts (with more than 10 beneficiaries) from purchasing farmland in Saskatchewan. The regulations also clarify that non-Canadians or non-Canadian owned entities should not have access to the capital appreciation of farmland. Lastly, the regulations state that, when financed, farmland purchases must be through a financial institution registered to do business in Canada, or a Canadian resident.

While there is high interest in this topic now, the issue of people wanting to invest in Saskatchewan farmland is relatively new. For most of modern history, farming, and farmland was seen, at best, as an uncertain investment. This means there are a lot of possibilities and unknowns about all the options around farmland ownership and the potential impact on future land prices and land ownership.

**80% of Farmland Sales are Between Farmers**



SOURCE: Saskatchewan Ministry of Agriculture  
Data based on transactions that took place in March 2014, November 2014 and March 2015.

# The Role of the Farm Land Security Board

The Farm Land Security Board (FLSB), a quasi-judicial tribunal, monitors all land transactions and uses information from Information Services Corporation to confirm landowners are complying with the Act. Given the heightened interest in farmland ownership, the FLSB has been presented with increasingly complex agreements and structures by parties interested in purchasing farmland. The FLSB does issue exemptions for economic development, such as potash mines or oil gas, and has also, in some instances, issued divestiture notices. Some exemptions have been granted to allow people immigrating to Canada time for the immigration process to be completed. All exemptions are posted online: [www.farmland.gov.sk.ca/](http://www.farmland.gov.sk.ca/)

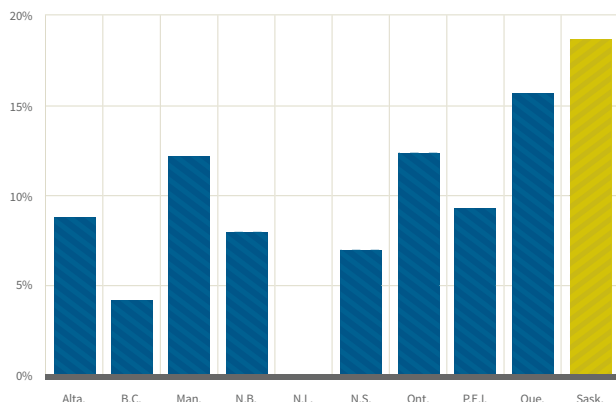
The Board has the power to investigate to determine if a particular land transaction has complied with the law.

For example, the Board can request a declaration confirming owners are either Canadian citizens or permanent residents and that no non-Canadians have an interest in the farmland being purchased. The Board may also seek information on the source of funds for the purchase to determine if any non-Canadians have an interest in the land being purchased. However, there are limitations on their current capacity, including investigating questionable purchases.

If non-compliance with the Act is found, the Board has the authority to order an owner to sell the land if they don't become compliant with the Act.

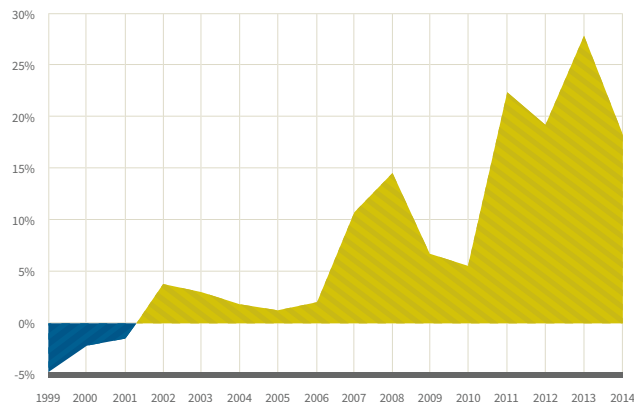
Under the Act, penalties of up to \$10,000 for individuals and \$100,000 for corporations can also be levied if farm ownership provisions are contravened.

National Percentage Change  
in Farmland Values  
(2014)



SOURCE: Farm Credit Canada Historic Farmland Values 1985 - 2014

Saskatchewan Percentage  
Change in Farmland Values  
(2014)



SOURCE: Farm Credit Canada Historic Farmland Values 1985 - 2014

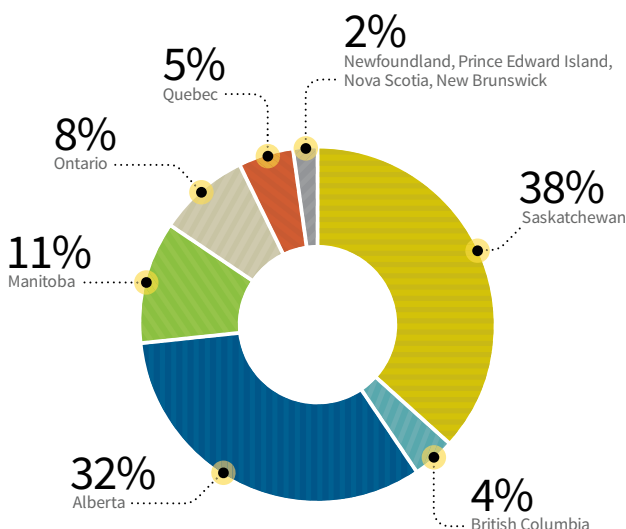
# Current Agricultural Landscape

The Saskatchewan agricultural industry has changed significantly since farmland ownership legislation was first introduced in 1974. The industry has undergone a dramatic structural change and rationalization. This change is characterized by:

- Declining farm numbers (from approximately 50,000 in 2004 to approximately 37,000 in 2011);
- An increase in farm size;
- An increase in the total number of acres rented by producers;
- Improvements in management and marketing skills;
- Adoption of new technologies as a means of managing labour, production and management cost while improving profitability.

- Challenges, as always, exist to entering the industry. Unless through an intergenerational transfer, the cost of land, equipment and other capital can be a barrier to entry and future growth;
- Farming operations are becoming more complex in their structure as they become larger and there are more options as to how producers can structure and finance their operations, including owning versus renting;
- Value-added production and farm related manufacturing are areas of growth in Saskatchewan and complement primary farming operations; and
- Agriculture is a global industry and part of the global economy. Saskatchewan depends on trade with other countries for the sale of our agricultural commodities.

## Farmland in Canada



SOURCE: Statistics Canada 2011 Census of Agriculture

In the past, Saskatchewan farmland values have lagged behind other neighbouring jurisdictions like Manitoba and Alberta. In recent years, land prices in the province have begun to appreciate quickly for a number of reasons, most notably:

- Strong commodity prices;
- Improvements in farm profitability as measured by net farm income; and
- A trend of historically low interest rates and relatively favourable lending terms.

# Jurisdictional Comparison

In regard to farmland ownership rules, there is variation across the country. Some examples:

|                             |   |
|-----------------------------|---|
| <b>SASKATCHEWAN</b>         | <ul style="list-style-type: none"> <li>• Non-Canadians and non-100-per-cent Canadian owned entities can own no more than 10 acres of farmland in Saskatchewan.</li> <li>• The Saskatchewan Farm Land Security Board can grant exemptions.</li> <li>• Pension plans and investment trusts cannot own farmland in Saskatchewan.</li> </ul>  |
| <b>ONTARIO</b>              | <ul style="list-style-type: none"> <li>• No restriction on foreign ownership.</li> </ul>  |
| <b>BRITISH COLUMBIA</b>     | <ul style="list-style-type: none"> <li>• No restriction on foreign ownership.</li> </ul>  |
| <b>ALBERTA</b>              | <ul style="list-style-type: none"> <li>• Non-Canadians and foreign-controlled entities can own no more than 20 acres of agricultural land.</li> <li>• Alberta Government can grant exemptions.</li> <li>• An entity needs to be majority owned by Canadians (versus wholly owned) to be considered Canadian.</li> <li>• Canadian pension plans have purchased farmland in Alberta.</li> </ul> |
| <b>MANITOBA</b>             | <ul style="list-style-type: none"> <li>• Non-Canadians and non-100-per-cent-owned Canadian entities can own no more than 40 acres of farmland.</li> <li>• Manitoba Farm Lands Ownership Board can grant exemptions.</li> <li>• Pension plans cannot purchase farmland in Manitoba.</li> </ul>   |
| <b>QUEBEC</b>               | <ul style="list-style-type: none"> <li>• Non-Quebec residents must seek authorization from the Commission de protection du territoire agricole du Québec to acquire more than 10 acres of farmland.</li> </ul>  |
| <b>PRINCE EDWARD ISLAND</b> | <ul style="list-style-type: none"> <li>• Non-PEI residents can own no more than five acres.</li> <li>• Farm size is limited to 1,000 acres for individuals and 3,000 acres for corporations.</li> </ul>   |



# Questions to Think About

1. What is your vision for how agriculture/farming should evolve over the next 30 years in Saskatchewan?
2. Do you feel we need changes on this issue? Why?
  - a. Should foreign ownership of farmland be allowed? What are the concerns with opening up farmland to foreign ownership? What are the concerns with continuing to restrict foreign ownership of farmland? Should foreign funds be eligible to finance farmland purchases in Saskatchewan?
  - b. Should pension plans and investment trusts be permitted to own Saskatchewan farmland? Should entities that are majority but not wholly Canadian owned be permitted to own Saskatchewan farmland?
  - c. If you want a more liberalized set of rules, why and what would you hope to achieve?
  - d. If you want more restrictions, why and what would you hope to achieve?
3. In your opinion, is farmland inherently different from other real assets (eg. office buildings, mining equipment, and residential properties)? Why or why does it not warrant special rules?
4. Under what conditions do you think government can or should impose restrictions on the private sale of land?
5. What effect are existing farmland ownership rules having on the sellers of farmland in Saskatchewan? What effect are existing farmland ownership rules having on the purchasers of farmland in Saskatchewan?
6. Should the powers of the Farm Land Security Board be enhanced to ensure compliance with the law? What additional powers might be considered? Should the onus be on the purchaser to prove to the satisfaction of the Board that the transaction is in compliance with the law?

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