

# SOUTH DAKOTA LEGAL NOTES

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## In South Dakota, Are There Different Types Of Adoptions?

Yes. In South Dakota, there are several types of adoptions, including

- a) adoptions facilitated by social service agencies;
- b) private adoptions facilitated by adoption attorneys;
- c) adoptions facilitated by the South Dakota Department of Social Services;
- d) interstate adoptions;
- e) international adoptions;
- f) adult adoptions; and
- g) stepparent adoptions





## South Dakota Agricultural Law - 2017 Land Outlook

*By Chuck Sutton*

In 2016, land sales in southeast South Dakota and southwest Minnesota conducted by Chuck Sutton Auctioneer and Land included some noteworthy results, including a small 40-acre parcel of land located near Harrisburg, S.D., that sold for \$12,750 per acre.

Land at several other auctions in Lincoln County, S.D., sold for \$8,150, \$8,100, \$9,500 and \$7,550 per acre.

Noteworthy: Minnehaha County, S.D., included land sales at \$10,100, \$7,700 and \$8,300 per acre.

A 49-acre parcel of development land in the city limits of Brandon, S.D., sold for \$19,500 per acre.

A very good 160-acre unimproved farm in Moody County, S.D., sold for \$9,400 per acre. Numerous other Moody County farms with varying degrees of tillable and non-tillable land sold very well.

Several Lake County, S.D., parcels, including three near Rutland, S.D., sold for \$8,700, \$8,000 and \$7,725 per acre, and two others near Chester, S.D., sold for \$7,850 and \$7,800 per acre.

Minnesota farms in Rock, Pipestone, Lincoln, Murray, Lyon, Redwood and Cottonwood counties with high or relatively high percentages tillable sold for \$9,900, \$8,175, \$8,000, \$7,900, \$7,500 and \$6,700 per acre. Farms with lower percentages tillable and mixed utilizations sold at lower price levels.

A couple of large parcels in northwest Iowa with mixtures of crop and non-cropland acres sold for \$12,200 and \$10,400 per acre.

In 2016 the majority of the farms with relatively high or very high percentages of tillable acres sold in the \$6,000- to \$10,000-per-acre price range. In the current market it takes a tract of land of extremely

high caliber to bring upward of \$10,000 per acre.

“Good pasture” with quality grass, good fences and a decent water supply was and is a highly sought after commodity, especially for the cow-calf operator.

Values of poor quality, marginal and recreational land remained somewhat soft, but rebounded slightly as landowners, investors and lenders are somewhat disinterested in parcels of land that won't generate a cash flow sufficient to sustain itself.

Commercial and development land values rebounded slightly, partially due to the strength of agricultural land firming up a base level for development land capable of producing some crop income that might be sufficient to sustain the holding costs for a period of years, along with a realization and belief that there may be some long-term potential for upside improvements in commercial land values in the future.

Cropland in many cases is still yielding a 3% to 4% return on investment, outperforming certificates of deposits and other investments. Land as an investment affords a high degree of security. It is a tangible investment that won't yield a negative or zero return because there are ample farm operators who are ready, willing and able to rent land.

As for 2017, if there are no major adverse economic influences, if crop production remains average to above average and if commodity prices don't erode further, there is no evidence on the horizon for drastic downturns or increases in land values. Expect land values in 2017 to remain constant and pretty status quo.

*Sutton is president and CEO of Chuck Sutton Land Broker and Auctioneer, Sioux Falls, S.D.*



## South Dakota Agricultural Law - State Fencing Law

As a farming and ranching state, South Dakota has numerous agricultural-related laws. One particularly interesting area of agricultural law is entitled “Partition Fences” and outlines South Dakota’s rules for the who, what, when, where, and why of constructing suitable fences between landowners. Here’s a few of the key points:

South Dakota law requires that adjoining landowners each be responsible for one-half of the construction and costs of a suitable fence between their respective pieces of property.

Keeping things clear and simple, the law even outlines what half of the fence each landowner is responsible for - “each owner of adjoining lands shall build that half of the fence which shall be upon his right hand when he stands upon his own land and faces the line upon which the proposed fence is to be built.”

Though owners can agree to any type of fence that they both find suitable, state law sets out the specifics of what type of fence is required if neighbors are unable to come to a mutual understanding.

The laws include specifications for wooden post fences, metal post fences, or even concrete post fences.

The building specifications lay out how far apart the posts should be, how deep in the ground the posts must be buried, and that they should be braced at ends, corners, and gates.

Finally, the law states that fences should have 4 barbed wire strands spaced 10 inches apart from one another.

Interestingly, the law includes a specific provision stating that a person cannot be required to build a fence if the ground is frozen.

You should also be aware that “[a]ny person who shall intentionally open, or leave open, let down, throw down, tear down, or prostrate any fence, gate, or bars, legally constructed, located, and lawfully maintained, which encloses a meadow, pasture, livestock range, or private other inclosure, is guilty of a Class 2 misdemeanor.” In case you were wondering, the penalty for a Class 2 misdemeanor in South Dakota is punishable by 30 days in the county jail, a \$500 fine, or both. That’s some serious fencing business!



## Happy National Agricultural Week

March 19-25, 2017 is National Agricultural Week. We want to take a minute to THANK all of the farmers! We know farming is hard work and the work is never done. So, THANK YOU for the endless hours of work and planning for your operation.

We want to give a special shout out to Jake Fischer in our Corsica office! Not only does he head up our firm's Agricultural Law Practice, but he is a farmer too! Here he is with his beautiful family! Thanks for all you do, Jake!



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Scott Swier



Brooke Schloss



Jake Fischer



Lindsay Harris



Michael Henderson



Rebekkah Steinwand



Amanda Work

## SWIER LAW FIRM, PROF. LLC

### AVON OFFICE

202 N. Main Street, P.O. Box 256  
Avon, SD 57315  
p: (605) 286-3218  
f: (605) 286-3219  
toll free: (888) 864-9981

### CORSICA OFFICE

240 E. Main Street  
Corsica, SD 57328  
p: (605) 946-5096  
f: (605) 286-3219  
toll free: (888) 864-9981

### SIOUX FALLS OFFICE

2121 W. 63rd Place, Suite 200  
Sioux Falls, SD 57108  
p: (605) 275-5669  
f: (605) 286-3219  
toll free: (888) 864-9981

### WHITE LAKE OFFICE

306 S. Johnston Street, Suite 1  
White Lake, SD 57383  
p: (605) 249-2424  
f: (605) 286-3219  
toll free: (888) 864-9981

### WINNER OFFICE

142 E. 3rd Street  
Winner, SD 57580  
p: (605) 842-3373  
f: (605) 842-3375  
toll free: (888) 864-9981

[info@swierlaw.com](mailto:info@swierlaw.com) | [swierlaw.com](http://swierlaw.com)

