



SOUTH DAKOTA Suite 200 | 909 St. Joseph Street | Rapid City SD 57701 | 605.791.5133

MINNESOTA Suite 520 | 250 Marquette Avenue | Minneapolis MN 55401 | 651.330.5910

NEBRASKA Suite 210 | 9300 Underwood Avenue | Omaha NE 68114 | 402.397.5241

A Solution For Generations: Holding a Farm or Ranch In a Trust

For many families in the First Trust Company coverage area, a farm or ranch is both the source and makeup of generational wealth. Although family members appreciate the history and cultural heritage the land has woven through the fabric of the family, economic realities mean that not everyone throughout the generations is able to stay on the land.

Sometimes a generation has no “takers” for the opportunity to stay on the land, yet children in the next generation may have expressed interest in making a living off the land. Other times, family members may have physically left the land but want to be able to return to the property for recreational opportunities, or simply to keep in touch with their agrarian roots. Seldom do we hear that everyone in the family wants to sell the farm or ranch.

Giving the land to a family member who expresses interest (and frequently has worked the land with the older generation for decades) is a partial solution that sometimes alienates family members who either chose or were forced by economic realities to take an off-farm path, and who see the differential between inheritances as unfair. Selling the land to a family member for fair market value and distributing the proceeds between the non-farm heirs frequently saddles the person who chooses to continue the land with debt that challenges the long-term economic viability of the farm or ranch.

Some farm and ranch families have considered “putting the land in trust,” only to learn that many traditional trust companies want to manage only liquid assets such as marketable securities and have neither any interest in holding nor expertise in managing a farm or ranch.

First Trust Company has worked with farm and ranch families (and their advisors) to reach a long-term, yet flexible, solution to these age-old succession issues: **Holding the farm or ranch in trust.** Although the model can take countless formats while both addressing immediate concerns and providing a framework for meeting unanticipated challenges, it typically involves placing the land itself in a limited liability company (LLC), and then funding the trust with all the membership interests of the LLC.

By employing what one prominent lawyer has called South Dakota’s Dynamic Duo, a family can provide a significant element of risk management as well as an adaptable long-term roadmap for managing the farm or ranch by transferring the land to a limited liability company, exchanging the land for membership interests in the LLC, and adopting a customized operating agreement for both operating the LLC and governing its internal affairs. Simultaneously with establishing the LLC, the members can establish a revocable trust that is governed by South Dakota, and transfer their membership interests in the LLC to the trustee to hold in trust. <https://firsttrustcompany.com/resources/>

By retaining both the right to revoke the trust and the duties of manager of the LLC, the settlors assure that nothing need change in their day-to-day operation of the farm or ranch. Moreover, the settlor or settlors who established the trust and the LLC it holds can fine tune the trust and the LLC operating agreement so long as they are alive. Upon the death of the trust settlors, the trust becomes irrevocable, and typically the LLC membership interests remain trust property. A well-drafted trust instrument might provide for a committee, often of family members, to guide the trustee in making its decisions regarding the LLC, how it should be administered, and how the farm or ranch should operate.

Flexible South Dakota laws permit the LLC to be organized in a way that keeps the property exclusively in the bloodline, and even gives future generations a say in its operation. If the family prefers a less active role in managing the trust’s farm or ranch, First Trust Company has relationships with several professional farm and ranch managers with whom the LLC can work to manage the land as the trust settlors intended, in the best interests of the family members.

The unique aspects of South Dakota trust law permit the settlors of the trust to structure the trust and the agricultural operation it holds to fit with the family values and traditions upon which the farm or ranch was built. First Trust Company’s experience in, and enthusiasm for, the ag industry makes First Trust Company a good choice for helping farm and ranch families fulfill their generational dreams.