

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 312

5 By: Senators B. Johnson, M. Pitsch
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING OWNERSHIP AND
9 POSSESSION OF REAL PROPERTY; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE LAW CONCERNING OWNERSHIP AND
12 POSSESSION OF REAL PROPERTY.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 18-11-101(a), concerning the capacity of
20 aliens to take and transfer lands, is amended to read as follows:

21 (a) ~~All~~ Except as provided in § 18-11-701 et seq., all aliens shall be
22 capable of taking, by deed or will, lands and tenements in fee simple, or
23 other less estate, and of holding, aliening, and devising them.
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25 SECTION 2. Arkansas Code Title 18, Chapter 11, is amended to add an
26 additional subchapter to read as follows:
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Subchapter 7 – Foreign Ownership of Agricultural Land

18-11-701. Definitions.

As used in this subchapter:

28 (1)(A) "Agricultural land" means any tract of land in this state
29 consisting of more than five (5) acres, whether inside or outside the
30 corporate limits of a municipality, that is capable of supporting an
31 agricultural enterprise without substantial modification to the character of
32 the land, including without limitation land used for the:
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1 (i) Production of agricultural crops, fruit, or
2 other horticultural products; or

3 (ii) Raising or feeding of animals for the
4 production of livestock or livestock products, poultry or poultry products,
5 or milk or dairy products.

6 (B) For the purpose of this subchapter, adjacent parcels
7 of agricultural land under the same ownership are considered a single tract
8 of agricultural land;

9 (2) "Alien" means a person who is not a:

10 (A) Citizen of the United States; or

11 (B) Resident of a:

12 (i) State of the United States;

13 (ii) Territory of the United States;

14 (iii) Trusteeship of the United States; or

15 (iv) Protectorate of the United States;

16 (3) "Family farm corporation" means a business entity created
17 for the purpose of farming in which the majority of the stockholders are
18 members of a family;

19 (4) "Family farm unity" means agricultural production managed
20 and operated by a family and predominantly reliant of family labor;

21 (5) "Foreign business" means any business entity owned by an
22 alien or foreign government that is incorporated or unincorporated, including
23 without limitation:

24 (A) A corporation;

25 (B) A partnership;

26 (C) A limited partnership; or

27 (D) An association;

28 (6) "Residence" means a person's principal dwelling place where
29 the person intends to remain permanently or for an indefinite period of time;
30 and

31 (7) "Resident alien" means a person who:

32 (A) Is not a citizen of the United States; and

33 (B) Is a resident of a:

34 (i) State of the United States;

35 (ii) Territory of the United States;

36 (iii) Trusteeship of the United States; or

(iv) Protectorate of the United States;

18-11-702. Limitations on owning agricultural land- Violation.

(a)(1) Except as provided in this subchapter, an alien or foreign business shall not acquire by grant, purchase, devise, descent ,or otherwise agricultural land in this state if the total aggregate alien and foreign ownership of agricultural acreage in this state exceeds one percent (1%) of the total aggregate agricultural acreage in this state.

(2) A person may not hold agricultural land as an agent, trustee, or other fiduciary for an alien or foreign business in violation of this subchapter, provided that no security interest in the agricultural land is divested or invalidated by the violation.

(b) An alien or foreign business that acquires agricultural land in violation of this subchapter remains in violation as long as the alien or foreign business holds an interest in the land, provided that no security interest in the agricultural land is divested or invalidated by the violation.

(c)(1) An alien or foreign business that acquires agricultural land by grant, purchase, devise, descent, or otherwise shall file a report with the Secretary of the Department of Agriculture to determine if the acquisition of agricultural land is conveyed in accordance with the one-percent restriction on the total aggregate alien and foreign ownership as required under subsection (a) of this section.

(2) A report filed under subdivision (c)(1) of this section shall contain if applicable:

(A) The name of the alien or foreign business;

(B) The citizenship of the alien or the nation in which the foreign business is created or organized;

(C) The principal place of business of the foreign business;

(D) The legal name, address, and citizenship of each person who holds a substantial interest in the foreign business;

(E) The legal name, address, and citizenship of each alien who holds a substantial interest in the agricultural land;

(F) The type of interest in the agricultural land that is acquired or transferred;

1 (G) A legal description of the agricultural land;

2 (H) The purchase price paid or received, or any other
3 consideration given or received, for the agricultural land or interest in the
4 agricultural land;

5 (I) A declaration of the type of agricultural activity
6 engaged in on the agricultural land by the alien or foreign business if
7 authorized by §§ 18-11-703 and 18-11-704; and

8 (J) A declaration of intent as to the intended use of the
9 agricultural land by the alien or foreign business.

10 (d) An alien or foreign business that fails to file the report
11 required under subdivision (c)(1) of this section shall pay a civil penalty:

12 (1) As determined by the circuit court in an amount not to
13 exceed twenty-five percent (25%) of the fair market value of the interest in
14 agricultural land held by the alien or foreign business; and

15 (2) To the Attorney General.

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17 18-11-703. Lands owned by aliens or foreign businesses.

18 (a) An alien or foreign business that owns agricultural land in
19 accordance with § 18-11-702 may continue to own the agricultural land if the
20 agricultural land is held by:

21 (1) The present owner or a direct descendant of the present
22 owner of the agricultural land:

23 (A) In a trust for the benefit of the present owner or a
24 direct descendant of the present owner of the agricultural land; or

25 (B) Under a legal entity, including without limitation a:

26 (i) Corporation;

27 (ii) Limited liability corporation; or

28 (iii) Limited liability partnership; or

29 (2) An alien who is or shall become a resident alien of the
30 United States.

31 (b) An alien who is or shall become a resident alien of the United
32 States shall have the right to acquire and hold agricultural land in the
33 state upon the same terms as a citizen of the United States during the
34 continuance of his or her residence in the United States.

35 (c)(1) If a person is no longer a resident alien under subsection (b)
36 of this section, he or she shall have two (2) years to divest of the

1 agricultural land.

2 (2) Any agricultural land that is not divested within two (2)
3 years as required by subdivision (c)(1) of this section shall be sold:

4 (A) By order of the circuit court; and

5 (B) At a public sale in the manner prescribed by law for a
6 statutory foreclosure under § 18-50-101 et seq.

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8 18-11-704. Exceptions.

9 (a) An alien or foreign business may:

10 (1) Acquire by grant, purchase, devise, descent, or otherwise
11 agricultural land or an interest in agricultural land in this state for
12 immediate or potential use for nonfarming purposes; and

13 (2) Hold the agricultural land in the acreage necessary to
14 perform the nonfarming business operation.

15 (b) An alien or foreign business shall not use the agricultural land
16 for farming when the agricultural land is pending development to be used for
17 nonfarming purposes under subsection (a) of this section unless the
18 agricultural land is:

19 (1) Under lease to:

20 (A) A family farm unity;

21 (B) A family farm corporation; or

22 (C) An alien or foreign business that has filed a report
23 with the Secretary of the Department of Agriculture as required under § 18-
24 11-702(c); or

25 (2) Controlled through ownership, options, leaseholds, or other
26 agreements by a corporation that has entered into an agreement with the
27 United States under Title IV of the Housing and Urban Development Act of
28 1968.

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30 18-11-705. Lease.

31 An alien or foreign business that obtains a lease on agricultural land
32 for a term of ten (10) years or more or a lease renewable at the option of
33 the alien or foreign business which might total ten (10) years has acquired
34 agricultural land in violation of § 18-11-702.

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36 18-11-706. Rules.

1 The Department of Agriculture shall adopt rules necessary for the
2 implementation of this subchapter.

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