

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 340

5 By: Senator B. Johnson
6 By: Representative Vaught
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING OWNERSHIP AND
10 POSSESSION OF REAL PROPERTY; AND FOR OTHER PURPOSES.
11

Subtitle

14 TO AMEND THE LAW CONCERNING OWNERSHIP AND
15 POSSESSION OF REAL PROPERTY.
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17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 18-11-101(a), concerning the capacity of
21 aliens to take and transfer lands, is amended to read as follows:

22 (a) ~~All~~ Except as provided in §§ 18-11-110 and 18-11-701 et seq., all
23 aliens shall be capable of taking, by deed or will, lands and tenements in
24 fee simple, or other less estate, and of holding, aliening, and devising
25 them.
26

27 SECTION 2. Arkansas Code § 2-3-102(1), concerning the definition of
28 "agricultural land" used in the Arkansas Agricultural Foreign Investment Act
29 is amended to read as follows:

30 (1)(A) "Agricultural land" means any Arkansas land which is
31 outside the corporate limits of a municipality and is: ~~used or capable,~~
32 ~~without substantial modification to the character of the land, of use for~~
33 ~~agricultural, forestry, or timber production,~~

34 (i) Used for forestry production, including without
35 limitation land exceeding ten (10) acres in which ten percent (10%) of the
36 land is stocked by trees of any size, including land that formerly had trees



1 of any size covering the land that will be naturally or artificially
2 regenerated; or

3 (ii) Currently used for, or, if currently idle, land
4 last used within the past five (5) years, for farming, ranching, or timber
5 production, except land not exceeding ten (10) acres in the aggregate, if the
6 annual gross receipts from the sale of the farm, ranch, or timber products
7 produced on the land do not exceed one thousand dollars (\$1,000), including
8 without limitation land used for activities described in the Standard
9 Industrial Classification Manual (1987), Division A, exclusive of industry
10 numbers 0711-0783, 0851, and 0912-0919 which cover animal trapping, game
11 management, hunting carried on as a business enterprise, trapping carried on
12 as a business enterprise, and wildlife management.

13 (B) "Agricultural land" but does not include oil, gas, and
14 all other minerals, including coal, lignite, brine, and all minerals known
15 and recognized as commercial minerals underlying the land;

16
17 SECTION 3. Arkansas Code § 2-3-102(3)(D), concerning the definition of
18 "foreign party" used in the Arkansas Agricultural Foreign Investment Act, is
19 amended to read as follows:

20 (D) ~~Any~~ A party other than an individual or a government:

21 (i) Which is created or organized under the laws of
22 any state; and

23 (ii) In which a significant interest ~~is directly or~~
24 ~~indirectly held or in which not insubstantial~~ or substantial control is
25 directly or indirectly held ~~or is capable of being exercised~~ by:

26 (a) ~~Any~~ An individual referred to in
27 subdivision (3)(A) of this section;

28 (b) ~~Any~~ A foreign government;

29 (c) ~~Any~~ A party referred to in subdivision
30 (3)(C) of this section;

31 (d) ~~Any~~ A combination of ~~such~~ individuals,
32 parties, or government referred to in this subdivision (3)(D)(ii) of this
33 section; and

34
35 SECTION 4. Arkansas Code § 2-3-102, concerning the definitions used in
36 the Arkansas Agricultural Foreign Investment Act, is amended to add an

1 additional subdivision to read as follows:

2 (5) "Significant interest" or "substantial control" means:

3 (A) An interest of thirty-three percent (33%) or more held
4 by:

5 (i) A party referred to in subdivision (3)(D) of
6 this section;

7 (ii) An individual referred to in subdivision (3)(A)
8 of this section;

9 (iii) A party referred to in subdivision (3)(C) of
10 this section; or

11 (iv) A single government referred to in subdivision
12 (3)(B) of this section;

13 (B) An interest of thirty-three percent (33%) or more held
14 whenever the parties, individuals, or governments referred to in subdivision
15 (5)(A) of this section are acting in concert with respect to the interest
16 even though no single individual, party, or government holds an interest of
17 thirty-three percent (33%) or more; or

18 (C) An interest of fifty percent (50%) or more, in the
19 aggregate, held by parties, individuals, or governments referred to in
20 subdivision (5)(A) of this section even though the individuals, parties, or
21 foreign governments may not be acting in concert.

22
23 SECTION 5. Arkansas Code § 2-3-103(a)(1)(A), concerning registration
24 of foreign interest in agricultural land in Arkansas, is amended to read as
25 follows:

26 (a)(1)(A)(i) When after April 19, 1979, any foreign party acquires any
27 interest in agricultural land in Arkansas by grant, purchase, adverse
28 possession, devise, descent, or in any other manner or any agent, trustee, or
29 fiduciary acquires title to agricultural land in Arkansas on behalf of a
30 foreign party, the foreign party or agent, trustee, or fiduciary shall
31 register the ownership in the office of the circuit clerk in the county in
32 which the land is located within sixty (60) days after the acquisition.

33 (ii) A foreign party that acquires an interest in
34 agricultural land by reason of grant, purchase, devise, descent, or otherwise
35 before August 1, 2023, and failed to register the ownership as required by
36 subdivision (a)(1)(A)(i) of this section shall be granted a grace period

1 until midnight December 31, 2023, to register the ownership.

2 (iii) A registration of ownership by a foreign party
3 made by the end of the grace period under subdivision (a)(1)(A)(ii) of this
4 section is proper and not in violation of this section.

5
6 SECTION 6. Arkansas Code Title 18, Chapter 11, Subchapter 1, is
7 amended to add an additional section to read as follows:

8 18-11-110. Land ownership by prohibited foreign party controlled
9 business prohibited – Definitions.

10 (a) As used in this section:

11 (1) "Controlling interest" means an ownership interest of fifty
12 percent (50%) or more, in the aggregate;

13 (2) "Prohibited foreign party controlled business" means a
14 corporation, company, association, firm, partnership, society, joint-stock
15 company, trust, estate or other legal entity whose controlling interest is
16 owned by a prohibited foreign party; and

17 (3) "Prohibited foreign party" means the same as provided by §
18 18-11-702.

19 (b)(1) A prohibited foreign party controlled business shall not
20 acquire by grant, purchase, devise, descent, or otherwise any interest in
21 public or private land in this state.

22 (2) A party may not hold public or private land as an agent,
23 trustee, or other fiduciary for a prohibited foreign party controlled
24 business in violation of this section.

25 (c)(1) A prohibited foreign party controlled business entity in
26 violation of this section shall have two (2) years to divest of the public or
27 private land.

28 (2) Any public or private land that is not divested within two
29 (2) years as required by subdivision (c)(1) of this section shall be sold:

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

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

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34 SECTION 7. Arkansas Code Title 18, Chapter 11, is amended to add an
35 additional subchapter to read as follows:

36 Subchapter 7 – Foreign Ownership of Agricultural Land

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18-11-701. Purpose.

Under § 2-4-101, "It is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural and forest lands and other facilities for the production of food, fiber, and other agricultural and silvicultural products".

18-11-702. Definitions.

As used in this subchapter:

(1) "Agricultural land" means the same as provided by § 2-3-102;

(2) "Foreign government" means the same as provided by § 2-3-102;

(3) "Interest in agricultural land" means all direct interest acquired, transferred, or held in agricultural land including without limitation a lease of agricultural land:

(A) For a term of one (1) year or longer; or

(B) Renewable by option for terms which, if the options were all exercised, would total one (1) year;

(4) "Party" means the same as provided by § 2-3-102;

(5) "Prohibited foreign party" means:

(A) A citizen or resident of a country subject to international Traffic in Arms Regulations, 22 C.F.R. § 126.1;

(B) A foreign government formed within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1;

(C) A party other than an individual or a government, that is created or organized under the laws of a foreign government within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1; or

(D) Any party other than an individual or a government:

(i) That is created or organized under the laws of any state; and

(ii) In which a significant interest or substantial control is directly or indirectly held or is capable of being exercised by:

(a) An individual referred to in subdivision (5)(A) of this section; or

(b) A foreign government referred to in

1 subdivision (5)(B) of this section;

2 (c) A party referred to in subdivision (5)(C)
3 of this section;

4 (d) A combination of the individuals, parties,
5 or governments referred to in this subdivision (5)(D)(ii) of this section;

6 (E) An Entity of Particular Concern designated by the
7 United States Department of State; or

8 (F) An agent, trustee, or other fiduciary of a person or
9 entity enumerated in subdivisions (5)(A)-(E) of this section;

10 (6) "Residence" means a person's principal dwelling place where
11 the person intends to remain permanently for an indefinite period of time;

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

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

14 (B) Is a resident of a:

15 (i) State of the United States;

16 (ii) Territory of the United States;

17 (iii) Trusteeship of the United States; or

18 (iv) Protectorate of the United States; and

19 (8) "Significant interest" or "substantial control" means the
20 same as provided by § 2-3-102.

21
22 18-11-703. Limitations on owning agricultural land – Violation.

23 (a)(1) Except as provided in § 18-11-704, a prohibited foreign party
24 shall not acquire by grant, purchase, devise, descent, or otherwise any
25 interest in agricultural land in this state regardless of whether the
26 prohibited foreign party intends to use the agricultural land for nonfarming
27 purposes.

28 (2) A party may not hold agricultural land as an agent, trustee,
29 or other fiduciary for a prohibited foreign party in violation of this
30 subchapter.

31 (b) A prohibited foreign party that acquires agricultural land in
32 violation of this subchapter remains in violation as long as the prohibited
33 foreign party holds an interest in the agricultural land.

34
35 18-11-704. Interest in agricultural land owned by prohibited foreign
36 parties – Exceptions – Penalty.

1 (a) A prohibited foreign party who is a resident alien of the United
2 States shall have the right to acquire and hold agricultural land in the
3 state upon the same terms as a citizen of the United States during the
4 continuance of his or her residence in the State of Arkansas.

5 (b)(1) If a prohibited foreign party is no longer a resident alien
6 under subsection (a) of this section, he or she shall have two (2) years to
7 divest of the agricultural land.

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

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

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

13 (c)(1) When the Office of Agricultural Intelligence determines a
14 foreign party has acquired agricultural land in Arkansas in violation of this
15 subchapter, the office shall report the violation to the Attorney General.

16 (2) Upon receiving notice under subdivision (c)(1) of this
17 section, or otherwise in his or her discretion, the Attorney General shall
18 institute an action in the circuit court of any county in which any portion
19 of the agricultural land acquired or held in violation of this subchapter is
20 located.

21 (3) A prohibited foreign party owning agricultural land
22 subsequent to the passage of this subchapter and not listed under one (1) of
23 the exceptions set out in subsections (a) and (b) of this section shall upon
24 conviction be guilty of a felony punishable by not more than two (2) years
25 imprisonment in the custody of the Division of Correction or a fifteen
26 thousand dollar (\$15,000) fine, or both.

27 (d) It is an affirmative defense to prosecution under this subchapter
28 that a prohibited foreign party is a resident alien of the State of Arkansas.

29
30 18-11-705. Office of Agricultural Intelligence – Creation – Duties.

31 (a) There is created within the Department of Agriculture the Office
32 of Agricultural Intelligence.

33 (b) The office is authorized and directed to:

34 (1) Collect and analyze information concerning the unlawful sale
35 or possession of agricultural land by prohibited foreign parties; and

36 (2) Administer and enforce the provisions of this subchapter,

1 including without limitation the reporting of a violation of this subchapter
2 to the Attorney General under § 18-11-705(c).

3 (c) The office shall operate under the direction of the Secretary of
4 the Department of Agriculture.

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