

PROPOSED AMENDMENT

HB 1183 # 7

DIGEST

Foreign interests in real property. Adds an exception to the prohibition against a prohibited person acquiring agricultural land for the renewal of a lease entered into before July 1, 2024. Amends language regarding the attorney general's enforcement powers for agricultural land acquired by a prohibited person. Adds language prohibiting a prohibited person from acquiring an interest in or leasing real property within a certain radius of military property.

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- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 1-1-16-10 IS REPEALED [EFFECTIVE JULY 1,
4 2024]. Sec. 10: (a) After June 30, 2023, a prohibited person may not
5 purchase, lease, or acquire a parcel of real property that is:
6 (1) located in Indiana; and
7 (2) directly adjacent to a military installation.
8 (b) A purchase, lease, or acquisition of a parcel of real property in
9 violation of subsection (a) is subject to divestiture pursuant to section
10 11 of this chapter.
11 (c) No title to real property shall be invalid or subject to divestiture
12 by reason of the violation of this section by any former owner or other
13 individual or entity holding or owning a former interest in the real
14 property.
15 SECTION 2. IC 1-1-16-11 IS REPEALED [EFFECTIVE JULY 1,
16 2024]. Sec. 11: (a) The attorney general may investigate the purchase,
17 lease, or acquisition of real property upon receipt of a complaint
18 alleging a violation of section 10 of this chapter.
19 (b) The attorney general shall enforce a violation of section 10 of
20 this chapter by commencing a receivership proceeding under
21 IC 32-30-5-1 and selling the property through the receivership. The
22 following apply to a receivership proceeding under this section:
23 (1) Proceeds of the sale shall be disbursed to lienholders, in their
24 order of priority, except for liens which under the terms of the
25 sale are to remain on the property.

- 1 (2) At the receivership sale, lienholders shall be able to have a
2 credit bid.
- 3 (3) No proceeds shall be distributed from the receivership sale to
4 the prohibited person. Any excess proceeds are forfeited and shall
5 be transferred to the state general fund by the receiver.
- 6 (4) Upon commencement of an action under this section, the
7 attorney general shall promptly file a notice of lis pendens with
8 the clerk of court. Upon the entry order for the sale of the property
9 under this section, the attorney general shall promptly record a
10 copy of the order in the office of the recorder of the county where
11 the property is located.
- 12 (c) The responsibility for determining whether an individual or other
13 entity is subject to section 10 of this chapter rests solely with the
14 prohibited person and the attorney general and no other individual or
15 entity. An individual or other entity who is not a prohibited person shall
16 bear no civil or criminal liability for failing to determine or make
17 inquiry of whether an individual or other entity is a prohibited person.
- 18 (d) Divestiture of a prohibited person's title under this section shall
19 not be a basis to void, invalidate, or otherwise extinguish any bona fide
20 mortgage, lien, or other interest granted by, through, or under the
21 prohibited person."
- 22 Page 3, line 29, after "Indiana." insert "**This subdivision does not**
23 **apply to the renewal of a lease for agricultural land that is in place**
24 **prior to July 1, 2024, if the acreage and description of the**
25 **agricultural land subject to the lease does not change.**".
- 26 Page 3, between lines 38 and 39, begin a new paragraph and insert:
27 "**(d) A purchase, acquisition, or lease of agricultural land in**
28 **violation of this section is subject to divestiture pursuant to section**
29 **6.5 of this chapter.**
- 30 (e) No title to agricultural land shall be invalid or subject to
31 divestiture by reason of a violation of this section by any former
32 owner or other individual or entity holding or owning a former
33 interest in the agricultural land."
- 34 Page 4, delete lines 7 through 22, begin a new paragraph and insert:
35 "**(b) The attorney general shall enforce a violation of section 4.5**
36 **of this chapter by commencing a receivership proceeding under**
37 **IC 32-30-5-1 and selling the agricultural land through the**
38 **receivership. The following apply to a receivership proceeding**
39 **under this section:**
- 40 (1) Proceeds of the sale shall be paid as follows:

- 1 **(A) The costs of the receivership and sale.**
 2 **(B) To lienholders, in their order of priority, except for**
 3 **liens which under the terms of the sale are to remain on the**
 4 **property.**
 5 **(C) Any penalty assessed against the prohibited person.**
 6 **(D) Any excess funds to the prohibited person.**
 7 **(2) At the receivership sale, lienholders shall be able to have**
 8 **a credit bid in an amount that is not more than the amount**
 9 **owed to the lienholder on the date of the sale, as established in**
 10 **the court order for the sale of the property.**
 11 **(3) Upon commencement of an action under this section, the**
 12 **attorney general shall promptly file a notice of lis pendens**
 13 **with the clerk of court. Upon the entry of an order for the sale**
 14 **of the property under this section, the attorney general shall**
 15 **promptly record a copy of the order in the office of the**
 16 **recorder of the county where the property is located.**
 17 **(4) The court may assess a penalty against the prohibited**
 18 **person for a violation of section 4.5 of this chapter in an**
 19 **amount not to exceed the greater of:**
 20 **(A) one hundred thousand dollars (\$100,000); or**
 21 **(B) five thousand dollars (\$5,000) per acre of agricultural**
 22 **land subject to the receivership proceeding.**
 23 **A penalty assessed under this subdivision must be transferred**
 24 **to the state general fund.**
 25 **(c) The responsibility for determining whether an individual or**
 26 **other entity is subject to section 4.5 of this chapter rests solely with**
 27 **the prohibited person and the attorney general and no other**
 28 **individual or entity. An individual or other entity who is not a**
 29 **prohibited person shall bear no civil or criminal liability for failing**
 30 **to determine or make inquiry of whether an individual or other**
 31 **entity is a prohibited person.**
 32 **(d) Divestiture of a prohibited person's title under this section**
 33 **shall not be a basis to void, invalidate, or otherwise extinguish any**
 34 **bona fide mortgage, lien, or other interest granted by, through, or**
 35 **under the prohibited person.**
 36 SECTION 9. IC 32-22-5 IS ADDED TO THE INDIANA CODE AS
 37 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2024]:
 39 **Chapter 5. Prohibition on Owning Land Near Military Property**
 40 **Sec. 1. As used in this chapter, "military installation" means a**

1 military base, camp, post, station, yard, center, or other activity
2 under the jurisdiction of:

- 3 (1) the secretary of a branch of a federal military department;
4 or
5 (2) the governor.

6 Sec. 2. As used in this chapter, "prohibited person" has the
7 meaning set forth in IC 32-22-3-3.5.

8 Sec. 3. As used in this chapter, "real property" means:

- 9 (1) land located within Indiana; and
10 (2) a building or fixture situated on land located within
11 Indiana.

12 Sec. 4. (a) Except as provided in subsection (b), after June 30,
13 2024, a prohibited person may not do any of the following:

- 14 (1) Acquire by grant, purchase, devise, descent, or otherwise
15 any real property located within a fifty (50) mile radius of a
16 military installation located in Indiana.
17 (2) Except for a lease agreement for residential property,
18 enter into a lease agreement as a lessee for any real property
19 located within a fifty (50) mile radius of a military installation
20 located in Indiana.
21 (3) Acquire by grant, purchase, devise, descent, or otherwise
22 any real property located within a ten (10) mile radius of an
23 armory (as defined in IC 10-16-1-2.5) or a maintenance
24 facility of the Indiana National Guard.
25 (4) Except for a lease agreement for residential property,
26 enter into a lease agreement as a lessee for any real property
27 located within a ten (10) mile radius of an armory (as defined
28 in IC 10-16-1-2.5) or a maintenance facility of the Indiana
29 National Guard.

30 (b) A prohibited person may acquire an interest in real property
31 by devise or bequest, through the enforcement of any security
32 interest or through the collection of debt. Any such acquisition
33 shall be subject to sections 5 and 6 of this chapter.

34 (c) A person who is not a prohibited person is not civilly or
35 criminally liable for failing to determine whether a person is a
36 prohibited person under this section.

37 Sec. 5. A prohibited person that directly or indirectly owns an
38 interest in real property located within a fifty (50) mile radius of a
39 military installation located in Indiana or a ten (10) mile radius of
40 an armory (as defined in IC 10-16-1-2.5) or a maintenance facility

1 of the Indiana National Guard shall electronically register the
 2 prohibited person's ownership with the attorney general, in the
 3 form and manner prescribed by the attorney general, not later
 4 than October 31, 2024. The information provided in the electronic
 5 registration must include:

- 6 (1) the name of the prohibited person holding an interest in
 7 the real property;
- 8 (2) the date of acquisition of the real property;
- 9 (3) the address and legal description of the real property; and
- 10 (4) the distance, in miles, to the nearest military installation,
 11 armory, or maintenance facility of the Indiana National
 12 Guard.

13 Sec. 6. (a) Upon receipt of information that leads the attorney
 14 general to believe an acquisition or lease of real property violates
 15 section 4 of this chapter, the attorney general shall investigate the
 16 alleged violation and may issue subpoenas requiring the:

- 17 (1) appearance of witnesses;
- 18 (2) production of relevant records; and
- 19 (3) giving of relevant testimony.

20 (b) The attorney general shall enforce a violation of section 4 of
 21 this chapter by commencing a receivership proceeding under
 22 IC 32-30-5-1 and selling the real property through the receivership.
 23 The following apply to a receivership proceeding under this
 24 section:

- 25 (1) Proceeds of the sale shall be paid as follows:
 - 26 (A) The costs of the receivership and sale.
 - 27 (B) To lienholders, in their order of priority, except for
 - 28 liens which under the terms of the sale are to remain on the
 - 29 property.
 - 30 (C) Any penalty assessed against the prohibited person.
 - 31 (D) Any excess funds to the prohibited person.
- 32 (2) At the receivership sale, lienholders shall be able to have
 33 a credit bid in an amount that is not more than the amount
 34 owed to the lienholder on the date of the sale, as established in
 35 the court order for the sale of the property.
- 36 (3) Upon commencement of an action under this section, the
 37 attorney general shall promptly file a notice of lis pendens
 38 with the clerk of court. Upon the entry of an order for the sale
 39 of the property under this section, the attorney general shall
 40 promptly record a copy of the order in the office of the

1 recorder of the county where the property is located.

2 **(4) The court may assess a penalty against the prohibited**
 3 **person for a violation of section 4 of this chapter in an amount**
 4 **not to exceed the greater of:**

5 **(A) one hundred thousand dollars (\$100,000); or**

6 **(B) five thousand dollars (\$5,000) per acre of real property**
 7 **subject to the receivership proceeding.**

8 **A penalty assessed under this subdivision must be transferred**
 9 **to the state general fund.**

10 **(c) The responsibility for determining whether an individual or**
 11 **other entity is subject to section 4 of this chapter rests solely with**
 12 **the prohibited person and the attorney general and no other**
 13 **individual or entity. An individual or other entity who is not a**
 14 **prohibited person shall bear no civil or criminal liability for failing**
 15 **to determine or make inquiry of whether an individual or other**
 16 **entity is a prohibited person.**

17 **(d) Divestiture of a prohibited person's title under this section**
 18 **shall not be a basis to void, invalidate, or otherwise extinguish any**
 19 **bona fide mortgage, lien, or other interest granted by, through, or**
 20 **under the prohibited person.**

21 SECTION 10. IC 34-30-2.1-1.5 IS REPEALED [EFFECTIVE JULY
 22 1, 2024]. ~~Sec. 1-5. IC 1-1-16-11(e) (Concerning the sale, lease, or~~
 23 ~~acquisition of property adjacent to a military installation to a prohibited~~
 24 ~~person):~~

25 SECTION 11. IC 34-30-2.1-525.2 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2024]: **Sec. 525.2. IC 32-21-16-6 (Concerning**
 28 **real estate closings involving agricultural land).**

29 SECTION 12. IC 34-30-2.1-525.4 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2024]: **Sec. 525.4. IC 32-22-3-4.5(c)**
 32 **(Concerning agricultural land purchased or leased by a prohibited**
 33 **person).**

34 SECTION 13. IC 34-30-2.1-525.5 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2024]: **Sec. 525.5. IC 32-22-3-6.5(c)**
 37 **(Concerning agricultural land held by a prohibited person).**

38 SECTION 14. IC 34-30-2.1-525.6 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2024]: **Sec. 525.6. IC 32-22-5-4(c)**

1 **(Concerning real property purchased or leased by a prohibited**
2 **person near military property).**

3 SECTION 15. IC 34-30-2.1-525.8 IS ADDED TO THE INDIANA
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2024]: **Sec. 525.8. IC 32-22-5-6(c)**
6 **(Concerning real property held by a prohibited person near**
7 **military property)."**

8 Renumber all SECTIONS consecutively.
 (Reference is to HB 1183 as reprinted February 1, 2024.)