

Amendment No. 1 to HB2553

Crawford

Signature of Sponsor

**AMEND Senate Bill No. 2639**

**House Bill No. 2553\***

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 2, Part 3, is amended by deleting the part and substituting the following:

**66-2-301.**

Except as otherwise provided in this part, all aliens are capable of taking, by deed or will, lands and tenements in fee simple, or other less estate, and of holding, aliening, and devising them.

**66-2-302.**

As used in this part:

(1)

(A) "Agricultural land" means land in this state that is outside the corporate limits of a municipality and is:

(i) Used for forestry production, including, without limitation, land exceeding ten (10) acres in which ten percent (10%) or more of the land is stocked by trees of any size,

including land that formerly had trees of any size covering the land that will be naturally or artificially regenerated; or

(ii) Currently used for, or, if currently idle, land last used within the past five (5) years, for farming, ranching, or timber production, except land not exceeding ten (10) acres in the aggregate, if the annual gross receipts from the sale of the farm, ranch, or timber products produced on the land do not exceed one thousand dollars (\$1,000), including, without limitation, land used by persons and entities for activities regulated under title 70; and

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

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

(3) "Entity of particular concern" means an entity designated by the United States department of state and includes Al-Shabaab, Boko Haram, Hayat Tahrir al-Sham, the Houthis, ISIS-Sahel (formerly known as ISIS-Greater Sahara), ISIS-West Africa, Jamaat Nasr al-Islam wal Muslim in, the Taliban, and the Wagner Group based on its actions in the Central African Republic;

(4) "Foreign government" means a government other than the federal government or a government of a state or a political subdivision of a state;

(5) "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 or longer;

(6) "Non-agricultural land" means all public or private land other than agricultural land;

(7) "Party" means a person, corporation, company, association, firm, partnership, society, joint-stock company, trust, estate, or other legal entity;

(8) "Prohibited foreign party":

(A) Means:

(i) A citizen or resident of a country subject to international traffic in arms regulations under 22 C.F.R. § 126.1;

(ii) A foreign government formed within a country subject to international traffic in arms regulations under 22 C.F.R. § 126.1;

(iii) 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 under 22 C.F.R. § 126.1; or

(iv) A party other than an individual or a government:

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

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

(1) An individual referred to in subdivision

(8)(A);

(2) A foreign government referred to in subdivision (8)(B);

(3) A party referred to in this subdivision (8)(A)(iv); or

(4) A combination of the individuals, parties, or governments referred to in this subdivision (8)(A)(iv)(b);

(v) An entity of particular concern; or

(vi) An agent, trustee, or other fiduciary of a person or entity enumerated in subdivisions (8)(A)(i)-(v); and

(B) Does not mean a nonresident alien;

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

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

(11) "Resident alien" means a person who:

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

(B) Is a resident of a:

(i) State of the United States;

(ii) Territory of the United States;

(iii) Trusteeship of the United States; or

(iv) Protectorate of the United States; and

(12) "Significant interest" or "substantial control" means:

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

(i) A party referred to in subdivision (8)(D);

(ii) An individual referred to in subdivision (8)(A);

(iii) A party referred to in subdivision (8)(C); or

(iv) A single government referred to in subdivision (8)(B);

(B) An interest of thirty-three percent (33%) or more held whenever the parties, individuals, or governments referred to in subdivision (8) are acting in concert with respect to the interest even though no single individual, party, or government holds an interest of thirty-three percent (33%) or more; or

(C) An interest of fifty percent (50%) or more, in the aggregate, held by parties, individuals, or governments referred to in subdivision (8) even though the individuals, parties, or foreign governments may not be acting in concert.

**66-2-303.**

(a)

(1) A prohibited foreign-party-controlled business shall not acquire by grant, purchase, devise, descent, or otherwise an interest in non-agricultural land in this state.

(2) A party shall not hold non-agricultural land as an agent, trustee, or other fiduciary for a prohibited foreign-party-controlled business.

(3) A prohibited foreign-party-controlled business that acquires non-agricultural land in violation of this section remains in violation as long as the prohibited foreign-party-controlled business holds an interest in the non-agricultural land.

(b)

(1) A prohibited foreign-party-controlled business in violation of this section shall divest itself of the non-agricultural land within two (2) years of the date the entity is found to be in violation.

(2) If a prohibited foreign-party-controlled business does not divest itself of the non-agricultural land as prescribed in subdivision (b)(1), the attorney general and reporter shall commence an action pursuant to § 66-2-306.

(c) A violation of this section is a Class A misdemeanor, punishable by a fine of one thousand five hundred dollars (\$1,500) or confinement for not more than eleven (11) months and twenty-nine (29) days, or both.

(d) This section does not apply to a prohibited foreign-party-controlled business entity possessing an interest in non-agricultural land if the prohibited foreign-party-controlled business entity:

(1) Is a duly registered business and has maintained a status of good standing with the secretary of state for five (5) years or longer prior to January 1, 2025; and

(2) Has been approved by the committee on foreign investment in the United States (CFIUS).

**66-2-304.**

(a) It is the declared policy of this 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.

(b)

(1)

(A) Except as provided in subsection (c), a prohibited foreign party shall not acquire by grant, purchase, devise, descent, or otherwise an interest in agricultural land in this state regardless of whether the prohibited foreign party intends to use the agricultural land for nonfarming purposes.

(B) A party shall not hold agricultural land as an agent, trustee, or other fiduciary for a prohibited foreign party in violation of this section.

(2) A prohibited foreign party that acquires agricultural land in violation of this section remains in violation as long as the prohibited foreign party holds an interest in the agricultural land.

(c)

(1) If a prohibited foreign party is not a resident alien or their resident alien status has lapsed, then the party has two (2) years to divest itself of the agricultural land.

(2) If the prohibited foreign party does not divest itself of the agricultural land as prescribed in subdivision (c)(1), then the attorney general and reporter shall commence an action in circuit court pursuant to § 66-2-306.

(d) A prohibited foreign party owning agricultural land in this state after January 1, 2025, and not a resident alien, commits a Class A misdemeanor, punishable by a fine of one thousand five hundred dollars (\$1,500) or confinement for not more than eleven (11) months and twenty-nine (29) days, or both.

**66-2-305.**

(a) There is created within the department of agriculture the office of property intelligence.

(b) The office of property intelligence shall:

(1) Collect and analyze information concerning the unlawful sale or possession of agricultural and non-agricultural land by prohibited foreign parties and prohibited foreign-party-controlled businesses; and

(2) Administer and enforce the provisions of this part, including, without limitation, the reporting of a violation of this part to the attorney general and reporter under § 66-2-306(b).

(c)

(1) The commissioner of agriculture is authorized to commission as property intelligence law enforcement officers those employees of the department who have successfully met standards of initial and recurrent training and qualification established by the commissioner pursuant to this subsection (c) for the commissioning of employees as property intelligence law enforcement

officers. The standards must be substantially equivalent to those established by the Tennessee peace officer standards and training commission.

(2)

(A) For the sole purpose of carrying out the scope of assigned duties regarding criminal offenses under this part as specified or limited in the sole discretion of the commissioner, each employee commissioned pursuant to subdivision (c)(1) has all the powers and protections of a law enforcement officer throughout this state, including, but not limited to, the authority to:

(i) Make arrests for violations of this part, execute all warrants, and serve process in criminal and penal prosecutions for such offenses; and

(ii) Carry weapons for the reasonable purposes of the employee's office while in the performance of the employee's assigned duties.

(B) When on duty, each employee commissioned pursuant to subdivision (c)(1) shall carry on the employee's person a badge and identification card that identify the commissioned employee as an officer of the department of agriculture. The commissioned employee shall exhibit the badge and identification card on demand and prior to making an arrest.

**66-2-306.**

(a) When the office of property intelligence, as created under § 66-2-305, determines a prohibited foreign party or prohibited foreign-party-controlled business has acquired agricultural or non-agricultural land in this state in violation of this part, the office must report the violation to the attorney general and reporter.



(b) Upon receiving notice under subsection (a) or upon receipt of information that leads the attorney general and reporter to believe that a violation of this part may exist, the attorney general and reporter may conduct an investigation for which the attorney general and reporter may issue subpoenas requiring:

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

(c) If as a result of the investigation under subsection (b) the attorney general and reporter determines that a violation of this part has occurred, then the attorney general and reporter shall commence an action in the circuit court with jurisdiction of the agricultural or non-agricultural land.

(d) Notwithstanding another law, if the agricultural or non-agricultural land is held in violation of this section, then the agricultural or non-agricultural land is subject to forfeiture in accordance with the procedures set out in title 40, chapter 33, part 2, and the circuit court shall order that the agricultural or non-agricultural land be sold through a public sale in accordance with title 35, chapter 5.

(e) The proceeds of the sale of agricultural or non-agricultural land by forfeiture under this part must be disbursed to lien holders, in the order of priority, except for liens which under the terms of the sale are to remain on the land.

(f) The attorney general and reporter shall promptly record a copy of the following with the register of deeds of the county in which the agricultural or non-agricultural land is located:

- (1) Upon commencement, notice of the pendency of an action brought under subsection (c); and
- (2) The order for the sale of the agricultural or non-agricultural land under subsection (d).

(g) Title to agricultural or non-agricultural land is not invalid or subject to divestiture due to a violation of this section by:

(1) A former owner; or

(2) Other person holding or owning a former owner's interest in the land.

(h) Except as provided in this part, a person who is not prohibited from acquiring or holding an ownership in agricultural or non-agricultural land under this part is not required to determine or inquire into whether another person is or may be a prohibited foreign party or a prohibited foreign-party-controlled business.

(i) This section does not apply to a prohibited foreign-party-controlled business entity possessing an interest in agricultural land if the prohibited foreign-party-controlled business entity:

(1) Is a duly registered business and has maintained a status of good standing with the secretary of state for five (5) years or longer prior to January 1, 2025; and

(2) Has been approved by the committee on foreign investment in the United States (CFIUS).

**66-2-307.**

(a) The office of property intelligence created under § 66-2-305 is administratively attached to and shall operate under the direction of the commissioner of agriculture for all purposes.

(b) The commissioner of agriculture shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate this part, including how to govern the administration of the office of property intelligence.

(c)

(1) The department of agriculture shall submit an annual report to the governor, the speaker of the house of representatives, and the speaker of the

senate detailing the office of property intelligence's activities and operations on or before December 31 of each year, including:

(A) A statement of the number and type of cases investigated by the office;

(B) The number and type of cases reported to the attorney general for further action;

(C) Information collected and analyzed on the unlawful sale or possession of agricultural and non-agricultural land by prohibited foreign parties;

(D) The number of actions brought by the attorney general and reporter and orders for sale of agricultural and non-agricultural property under this part;

(E) An assessment of the process for coordinating all operations between the office, the attorney general, and the registers of deeds; and

(F) Other relevant information as determined by the department of agriculture and the office of property intelligence in administering this part.

(2) The department of agriculture shall make the report required under subdivision (c)(1) available to the public on the department's website.

(d) The office of property intelligence is subject to examination and audit by the comptroller of the treasury in the same manner as prescribed for departments and agencies of the state pursuant to § 8-4-109. The division of state audit may conduct its review of the office as part of the performance audit conducted on the department; provided, that both entities are subject to review in the same year by the joint evaluation committees created by § 4-29-103.

**66-2-308.**

(a) Beginning January 1, 2025, a foreign person required to make a report to the United States department of agriculture under the Agricultural Foreign Investment Disclosure Act (7 U.S.C. § 3501 et seq.), shall also file a copy of the required report with the commissioner of agriculture within the time period required under the federal law.

(b) The attorney general and reporter:

(1) Shall impose a civil penalty not to exceed twenty-five percent (25%) of the fair market value, on the date of the assessment of the penalty, of the interest in the agricultural land for failure to file a copy of the report with the commissioner of agriculture as required under subsection (a); and

(2) May bring an action to collect the civil penalty in the circuit court of any county in which any portion of the agricultural land acquired is located.

(c) This section expires upon the repeal of the Agricultural Foreign Investment Disclosure Act (7 U.S.C. § 3501 et seq.).

SECTION 2. For the purpose of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2025, the public welfare requiring it.