



April 16, 2024

SUMMARY OF BILL AS AMENDED (018002): Prohibits a prohibited foreign party (PFP) or prohibited foreign-party-controlled business (PFPCB) from acquiring by grant, purchase, devise, descent, or otherwise, any interest in agricultural land in this state, regardless of whether it intends to use such land for nonfarming purposes, or from holding agricultural land as an agent, trustee, or other fiduciary for a PFP or PFPCB. Requires that any such party must divest itself of any agriculture land within two years of the date the entity is found to be in violation.

Further prohibits any PFPCB from acquiring, by grant, purchase, devise, descent, or otherwise, any interest in non-agricultural land in this state, or a party holding non-agricultural land as an agent, trustee, or other fiduciary for a prohibited PFPCB. Any PFPCB found in violation of this act must divest itself of any non-agricultural land within two years of the date the entity is found to be in violation. Specifies that a PFP or PFPCB that acquires agricultural land or an PFPCB that acquires non-agricultural land, in violation of this act, remains in violation as long as such entities hold an interest in such land.

Exempts from such prohibition any PFP or PFPCB, possessing an interest in either agricultural or non-agricultural land, which meets the following requirements:

- Is a duly registered business and has maintained a status of good standing with the Secretary of State (SOS) as of January 1, 2025; and
 - Has been approved by the Committee on Foreign Investment in the United States; or
 - Has previously received a determination that there are no unresolved national security concerns or pending actions under Section 721 of the *Defense Production Act of 1950* (50 U.S.C. App. 2170), and that such are concluded with respect to a covered transaction, as defined in 31 C.F.R. § 800.213; provided, that such PFP or related PFPCB have not undergone a change in control constituting a covered control transaction since such determination and all appropriate reports have been filed.

Requires any PFP or PFPCB that hold an interest in agricultural land in this state on or after January 1, 2025 to register such land with the Department of Agriculture (DOA). Requires the DOA to impose a civil penalty against any PFP or PFPCB which fails to register, of up to \$2,000 for each violation.

Requires any PFPCB that holds an interest in non-agricultural land in this state after January 1, 2025 to register such land with the Secretary of State's Office (SOS). Requires the SOS to

impose a civil penalty against any PFPCB which fails to register, of up to \$2,000 for each violation.

Requires the Attorney General and Reporter (AG) to take legal action in the appropriate circuit court, should divestures not occur. If the agricultural or non-agricultural land is held in violation of this act, the respective court is required to sell such land through judicial foreclosure. Establishes that any violation of this prohibition is a Class A misdemeanor offense and the court must sell such land through judicial foreclosure.

Specifies that this act does impose liability upon real estate agents, attorneys, title insurance companies or agents, or banks when such are involved in a transaction in which a PFP acquired property in violation of this act.

For purposes of promulgating rules, this act takes effect upon becoming law. For all other purposes, this act takes effect January 1, 2025.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- This legislation removes the majority of the statute that was enacted by Public Chapter 369 of 2023 (PC 369), effective July 1, 2023, which prohibited any acquisition of real property after such date by any nonresidential alien, sanctioned foreign business, sanctioned foreign governments, or their agents, trustees, or fiduciaries.
- This legislation will add similar prohibitions to those created under PC 369, reduce the fine for similar violations, from \$2,000 to \$1,500, but makes such violations Class A misdemeanor offenses, which may be punishable by up to 11 months and 29 days of confinement, in addition to any such fine.
- Based on information provided by the SOS, since PC 369's enactment, no situations have been encountered that would necessitate any imposition of a civil penalty.
- The reporting requirements established by this legislation, for both the SOS and the DOA, respectively, can be handled by such agencies, utilizing their existing resources.
- Furthermore, it is assumed that this legislation will likewise result in no violations, nor fine revenue, nor increases in Class A misdemeanor offenses resulting in any increase in state or local expenditures for incarceration, nor any required judicial foreclosures.
- This legislation creates new civil penalties of up to \$2,000, which may be assessed by the DOA or SOS for the failure of either a PFP or PFPCB to register with either state agency, as appropriate.
- It is assumed that there will be no significant increase in civil penalty revenue collected by either the DOA or SOS as a result of this legislation.

- According to a 2022 American Farm Bureau Federation report, *Foreign Investment in U.S. Ag Land – The Latest Numbers*, the only investors from the proposed prohibited nations that own agricultural land in Tennessee are Iranian and Venezuelan.
- The actual Tennessee acreage owned by these entities is modest. It is assumed that such entities will divest their land within two years to avoid any penalties.

IMPACT TO COMMERCE OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- It is not known how many pending or future private land agreements may be disrupted by the proposed restrictions. However, it is assumed that the individuals and businesses potentially impacted by such prohibitions will be able to secure other such agreements on the open market with entities that are not prohibited.
- This legislation is estimated to have no significant impact on commerce or jobs in this state.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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