

SENATE BILL 1070

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 43; Title 44; Title 47; Title 48 and Title 66, relative to agricultural property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 43, is amended by adding the following as a new chapter:

43-2-101.

As used in this part:

(1) "Agricultural land" means:

(A) Land suitable for use in farming; and

(B) Land where a livestock market that is licensed under title 44, chapter 11, is located;

(2)

(A) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, the grazing or production of livestock, or sale of livestock at livestock market, as defined in § 44-11-101;

(B) "Farming" includes the production of timber, forest products, nursery products, or sod; and

(C) "Farming" does not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services;

(3) "Foreign business" means a corporation incorporated under the laws of a foreign country, or a business entity whether or not incorporated, in which a majority interest is owned directly or indirectly by nonresident aliens. Legal entities, including, but not limited to, trusts, holding companies, multiple corporations, and other business arrangements, do not affect the determination of ownership or control of a foreign business;

(4) "Foreign government" means a government other than the government of the United States, its states, territories, or possessions; and

(5) "Nonresident alien" means an individual who is not any of the following:

(A) A citizen of the United States; or

(B) A person lawfully admitted into the United States for permanent residence by the United States immigration and naturalization service. An individual is lawfully admitted for permanent residence regardless of whether the individual's lawful permanent resident status is conditional.

43-2-102.

(a) Except as provided in subsection (c), a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, shall not purchase or otherwise acquire agricultural land in this state. A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who holds agricultural land in this state on July 1, 2021, may continue to own or hold the agricultural land, but shall not purchase or otherwise acquire additional agricultural land in this state.

(b) A person who acquires agricultural land in violation of this part or who fails to convert the agricultural land to a purpose other than farming within five (5) years, as

provided in § 43-2-103, remains in violation of this part for as long as the person holds an interest in the agricultural land.

(c) The restriction in subsection (a) does not apply to the following:

(1) Agricultural land acquired by devise or descent;

(2) A bona fide encumbrance on agricultural land taken for purposes of security;

(3) Agricultural land acquired by a process of law in the collection of debts, by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the agricultural land, whether created by mortgage or otherwise. However, agricultural land so acquired must be sold or otherwise disposed of within two (2) years after title is transferred. Pending the sale or disposition, the agricultural land must not be used for any purpose other than farming, and the agricultural land must not be used for farming except under lease to an individual, trust, corporation, partnership, or other business entity not subject to the restriction on the increase in agricultural land holdings imposed by subsection (a); and

(4) An interest in agricultural land, not to exceed three hundred twenty (320) acres, acquired for an immediate or pending use other than farming. However, a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who lawfully owns over three hundred twenty (320) acres on July 1, 2021, may continue to own or hold the agricultural land, but shall not purchase or otherwise acquire additional agricultural land in this state except by devise or descent from a nonresident alien. Pending the development of the agricultural land for purposes other than farming, the agricultural land must not be used for farming except under lease to an

individual, trust, corporation, partnership, or other business entity not subject to the restriction on the increase in agricultural land holdings imposed by subsection (a).

(d) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof shall not transfer title to or interest in agricultural land to a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof except by devise or descent.

43-2-103.

(a) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who acquires agricultural land or an interest in agricultural land for an immediate or pending use other than farming, shall convert the agricultural land to a purpose other than farming within five (5) years after the acquisition of the agricultural land or the acquisition of the interest in the agricultural land.

(b) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who acquires agricultural land or an interest in agricultural land not subject to the restrictions of § 43-2-102(a) because the agricultural land or interest in agricultural land was acquired for an immediate or pending use other than farming, shall file a report with the secretary of state before March 31 of each year in each year that the nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, holds the agricultural land or interest in agricultural land. The report must be in the form and manner prescribed by the secretary of state and contain the following:

- (1) The name of the owner of the agricultural land or owner of the interest in the agricultural land;

(2) If the owner of the agricultural land or interest in agricultural land is an agent, trustee, or fiduciary of a nonresident alien, foreign business, or foreign government, the name of any principal for whom that agricultural land or interest in agricultural land was acquired as agent, trustee, or fiduciary;

(3) The location and number of acres of the agricultural land by municipality and county;

(4) The date the agricultural land or interest in agricultural land was acquired;

(5) The immediate or pending use other than farming, for which the agricultural land or interest in agricultural land was acquired and the status of the agricultural land's development for a purpose other than farming; and

(6) The present use of the agricultural land.

43-2-104.

(a) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who acquires agricultural land or an interest in agricultural land, by devise or descent after July 1, 2021, shall divest itself of all right, title, and interest in the agricultural land within two (2) years from the date of acquiring the agricultural land or interest.

(b) This section does not require divestment of agricultural land or an interest in agricultural land, acquired by devise or descent from a nonresident alien, if such agricultural land or an interest in such agricultural land was acquired by any nonresident alien prior to July 1, 2021.

43-2-105.

A person or business who purchases or otherwise acquires agricultural land in this state except by devise or descent, after July 1, 2021, and whose status changes so

that it becomes a foreign business or nonresident alien subject to this part, shall divest itself of all right, title, and interest in the agricultural land within two (2) years from the date that its status changed.

43-2-106.

A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who owns an interest in agricultural land within this state on or after July 1, 2021, shall register the agricultural land with the secretary of state. The registration must be made within sixty (60) days after July 1, 2021, or within sixty (60) days after acquiring the agricultural land or the interest in agricultural land, whichever time is the later. The registration must be in the form and manner prescribed by the secretary of state and contain the name of the owner and the location and number of acres of the agricultural land by municipality and county. If the owner of the agricultural land or owner of the interest in agricultural land is an agent, trustee, or fiduciary of a nonresident alien, foreign business, or foreign government, then the registration must also include the name of any principal for whom that agricultural land, or interest in agricultural land was purchased as agent, trustee, or fiduciary.

43-2-107.

(a) If the secretary of state finds that a nonresident alien, foreign business, foreign government, or an agent, trustee, or other fiduciary thereof, has acquired or holds title to or interest in agricultural land in this state in violation of this part, the secretary of state shall report the violation to the attorney general and reporter.

(b) Upon receipt of a report from the secretary of state under subsection (a), the attorney general and reporter shall initiate an action in the circuit court of any county in which the agricultural land is located.

(c) The attorney general and reporter shall file a notice of the pendency of any action initiated under subsection (b) with the recorder of deeds of each county in which any of the agricultural land is located.

(d)

(1) In any action initiated under subsection (b), if the court finds that the agricultural land in question has been acquired or held in violation of this part, it shall enter an order so declaring and shall file a copy of the order with the recorder of deeds of each county in which any portion of the agricultural land is located.

(2) If the court finds that the agricultural land in question has been acquired in violation of this part or that the agricultural land has not been converted to a purpose other than farming within five (5) years as required by § 43-2-103, the court shall declare the agricultural land escheated to the state and order the sale of the agricultural land in the manner provided by law for the foreclosure of a mortgage on real estate for default of payment. The proceeds of the sale must be used to pay court costs, and the remaining funds, if any, must be paid to the person divested of the agricultural land.

(e) If the secretary of state finds that a nonresident alien, foreign business, foreign government, or an agent, trustee, or other fiduciary thereof, violated this part by failing to timely register as required under § 43-2-106, or failing to timely file a report as required under § 43-2-103(b), the secretary of state shall assess a civil penalty not to exceed two thousand dollars (\$2,000) for each violation.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that

can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act takes effect July 1, 2021, the public welfare requiring it.