

SENATE BILL 2639

By Niceley

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

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

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%) 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 Muslimin, 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;

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

(7) "Prohibited foreign party" means:

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

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

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

(i) That is created or organized under the laws of a 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 (7)(A);

(b) A foreign government referred to in subdivision

(7)(B);

(c) A party referred to in subdivision (7)(C); or

(d) A combination of the individuals, parties, or

governments referred to in this subdivision (7)(D)(ii);

(E) An entity of particular concern, as defined in subdivision (3);

or

(F) An agent, trustee, or other fiduciary of a person or entity enumerated in subdivisions (7)(A)-(E);

(8) "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;

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

(10) "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

(11) "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 (7)(D);

(ii) An individual referred to in subdivision (7)(A);

(iii) A party referred to in subdivision (7)(C); or

(iv) A single government referred to in subdivision (7)(B);

(B) An interest of thirty-three percent (33%) or more held whenever the parties, individuals, or governments referred to in subdivision (7) 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 (7)

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 public or private land in this state.

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

(b)

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

(2) If a prohibited foreign-party-controlled business entity does not divest itself of the public or private land as prescribed in subdivision (b)(1), the attorney general and reporter shall commence an action in the circuit court within the jurisdiction of the public or private land.

(3)

(A) If the public or private land is held in violation of this section, the circuit court shall order that the public or private land be sold through judicial foreclosure.

(B) Proceeds of the sale 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 public or private land.

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

(A) Upon commencement, notice of the pendency of an action brought under subdivision (b)(2); and

(B) The order for the sale of the public or private land under subdivision (b)(3)(A).

(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) It is an affirmative defense to prosecution under this section that a prohibited foreign-party-controlled business entity is a resident alien of this state.

(e) Title to public or private land is not invalid or subject to divestiture due to a violation of this section by:

(1) A former owner; or

(2) Another person holding or owning a former interest in the public or private land.

(f) A person not subject to this section is not required to determine or inquire into whether another person is or may be subject to this section.

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) A prohibited foreign party who is a resident alien of the United States has the right to acquire and hold agricultural land in this state upon the same terms as a citizen of the United States during the continuance of the party's residence in this state.

(2)

(A) If a prohibited foreign party is no longer a resident alien under subdivision (c)(1), then the party has two (2) years to divest itself of the agricultural land.

(B) If the prohibited foreign party does not divest itself of the agricultural land as prescribed in subdivision (c)(2)(A), then the attorney general and reporter shall commence an action in circuit court within the jurisdiction of the agricultural land.

(C) If the agricultural land is held in violation of this section, the circuit court shall order that the agricultural land be sold through judicial foreclosure.

(3)

(A) When the office of agricultural intelligence, as created under subsection (d), determines a prohibited foreign party has acquired agricultural land in this state in violation of this section, the office must report the violation to the attorney general and reporter.

(B) Upon receiving notice under subdivision (c)(3)(A) or upon receipt of information that leads the attorney general and reporter to believe that a violation of this section may exist, the attorney general and reporter may issue subpoenas requiring the:

- (i) Appearance of witnesses;
- (ii) Production of relevant records; and
- (iii) Giving of relevant testimony.

(C) If as a result of the investigation under subdivision (c)(3)(B) the attorney general and reporter concludes that a violation of this section has occurred, the attorney general and reporter shall commence an action in circuit court within the jurisdiction of the agricultural land.

(D) If the agricultural land is held in violation of this section, the circuit court shall order that the agricultural land be sold through judicial foreclosure.

(4)

(A) The proceeds of the sale of agricultural land by judicial foreclosure authorized under this section 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 agricultural land.

(B) 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 land is located:

(i) Upon commencement, notice of the pendency of an action brought under subdivisions (c)(2)(B) and (c)(3)(B); and

(ii) The order for the sale of the agricultural land under subdivisions (c)(2)(C) and (c)(3)(C).

(5) A prohibited foreign party owning agricultural land after December 1, 2024, and not listed as an exception under subdivisions (c)(1) or (c)(2) 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.

(6) It is an affirmative defense to prosecution under this section that a prohibited foreign party is a resident alien of this state.

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

(A) A former owner; or

(B) Other person holding or owning a former interest in the agricultural land.

(8) A person not subject to this section is not required to determine or inquire into whether another person is or may be subject to this section.

(d)

(1) There is created within the department of agriculture the office of agricultural intelligence.

(2) The office is authorized and directed to:

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

(B) Administer and enforce the provisions of this section, including, without limitation, the reporting of a violation of this section to the attorney general and reporter under subdivision (c)(3).

(3) The commissioner of agriculture may designate employees of the department of agriculture who shall have the powers of peace officers or institutional law enforcement officers in the enforcement of the criminal laws of this state to perform the duties of the office under subdivision (d)(2).

(4) The office is administratively attached to and shall operate under the direction of the commissioner of agriculture for all purposes.

(5) The commissioner of agriculture shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to govern the administration of the office.

(6) The office 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.

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 December 1, 2024, the public welfare requiring it.