



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1671/1
KRP:cdc

2023 SENATE BILL 348

June 29, 2023 - Introduced by Senators STAFSHOLT, MARKLEIN, NASS, TOMCZYK and WANGGAARD, cosponsored by Representatives PLUMER, TRANEL, SCHMIDT, ALLEN, BEHNKE, BRANDTJEN, DITTRICH, EDMING, GUNDRUM, GUSTAFSON, S. JOHNSON, KURTZ, MAGNAFICI, MAXEY, MURSAU, O'CONNOR, OLDENBURG, RETTINGER, SAPIK, SCHRAA, TITTL, WICHGERS and BODDEN. Referred to Committee on Agriculture and Tourism.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 710.02 (2) (d) to (g) and 710.02 (3); **to renumber and amend**
2 710.02 (1) and 710.02 (9); **to amend** 710.02 (title), 710.02 (2) (intro.), 710.02 (2)
3 (a), 710.02 (2) (b), 710.02 (4) (a) 2., 710.02 (5), 710.02 (6) and 710.02 (8); and **to**
4 **create** 710.02 (1g), 710.02 (1r) (d) and 710.02 (9) (b) of the statutes; **relating**
5 **to:** limitations on ownership of agricultural or forestry land in this state by
6 foreign persons.

Analysis by the Legislative Reference Bureau

This bill generally prohibits certain foreign persons from acquiring more than 50 acres of agricultural or forestry land in this state, changes enforcement authority regarding foreign ownership of agricultural or forestry land from the attorney general to the Department of Agriculture, Trade and Consumer Protection, and makes various other changes to state laws restricting ownership of agricultural or forestry land by foreign persons.

Type of land subject to limitation

Current law generally prohibits certain foreign persons from acquiring, owning, or holding more than 640 acres of land in this state. However, that limitation does not apply to any of the following activities:

1. An exploration mining lease and land used for certain mining and associated activities.

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2. Certain manufacturing activities.
3. Certain mercantile activities.

4. A lease for exploration or production of oil, gas, coal, shale, and related hydrocarbons, including by-products of the production, and land used in connection with the exploration or production.

Those exceptions have been interpreted to be “extremely broad, embracing almost every conceivable business activity [other than a]ctivities relating to agriculture and forestry.” See Wis. Op. Att’y Gen. OAG 11-14, ¶15, available at <https://www.doj.state.wi.us>. In other words, under current law, foreign persons may acquire, own, and hold unlimited amounts of land for most nonagricultural and nonforestry purposes, but certain foreign persons may not acquire, own, or hold more than 640 acres of land for agricultural or forestry purposes.

The bill eliminates the four exceptions enumerated under current law and instead provides that the limitation on foreign ownership of land applies only to land that is classified, for property tax purposes, as agricultural, agricultural forest, or productive forest land (agricultural or forestry land).

Amount of land foreign persons may acquire

The bill reduces the maximum amount of agricultural or forestry land that certain foreign persons may acquire, own, or hold from 640 acres to 50 acres (acreage limit).

Covered foreign persons

Under current law, the following persons generally are subject to the acreage limit:

1. An alien not a resident of a state of the United States (nonresident alien).
2. A corporation that is not created under federal law or the laws of any state (foreign entity).
3. A corporation, limited liability company, partnership, or association having more than 20 percent of its stock, securities, or other indicia of ownership held or owned by nonresident aliens or foreign entities (foreign-owned entity).
4. A trust having more than 20 percent of the value of its assets held for the benefit of nonresident aliens or foreign entities (foreign beneficiary trust).

The bill specifies that the acreage limit also applies to a foreign government.

Divestiture period

Under current law, if a covered foreign person acquires an interest in agricultural or forestry land that causes the foreign person to exceed the acreage limit, the foreign person must divest itself of that interest. Specifically, the foreign person must divest itself within four years after:

1. Acquiring the interest, if the foreign person is a nonresident alien or foreign entity and the interest is acquired by devise, inheritance, or in the good faith collection of debts by due process of law.
2. Acquiring the interest or becoming a foreign-owned entity or foreign beneficiary trust, whichever is later, if the foreign person is a foreign-owned entity or foreign beneficiary trust.

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The bill reduces the divestiture period from four years to two years. The bill also specifies that the divestiture requirement described under item 1. applies to a foreign government.

Enforcement authority

Current law provides that the attorney general must enforce the limitations and requirements related to the acquisition, ownership, and holding of agricultural or forestry land by foreign persons. Among other things, current law provides that interests in land acquired or held in violation of those limitations are forfeited to the state. The bill transfers enforcement authority, including enforcement of the forfeiture penalty, to DATCP.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 710.02 (title) of the statutes is amended to read:

2 **710.02** (title) **Limitation on ~~nonresident aliens and corporations~~**
3 **foreign ownership of agricultural and forestry land.**

4 **SECTION 2.** 710.02 (1) of the statutes is renumbered 710.02 (1r), and 710.02 (1r)
5 (intro.), as renumbered, is amended to read:

6 710.02 **(1r)** LIMITATION. (intro.) The following persons may not acquire, own,
7 or hold any interest, directly or indirectly, except an interest used to secure
8 repayment of a debt incurred in good faith, in more than 640 50 acres of agricultural
9 or forestry land in this state:

10 **SECTION 3.** 710.02 (1g) of the statutes is created to read:

11 710.02 **(1g)** DEFINITION. In this section, “agricultural or forestry land” means
12 land that is classified as agricultural under s. 70.32 (2) (a) 4., agricultural forest
13 under s. 70.32 (2) (a) 5m., or productive forest land under s. 70.32 (2) (a) 6.

14 **SECTION 4.** 710.02 (1r) (d) of the statutes is created to read:

15 710.02 **(1r)** (d) Foreign governments.

SENATE BILL 348**SECTION 5**

1 **SECTION 5.** 710.02 (2) (intro.) of the statutes is amended to read:

2 710.02 (2) EXCEPTIONS. (intro.) ~~Except as provided in sub. (3), sub. (1)~~

3 Subsection (1r) does not apply to any of the following:

4 **SECTION 6.** 710.02 (2) (a) of the statutes is amended to read:

5 710.02 (2) (a) Subject to sub. (5), any person acquiring an interest in
6 agricultural or forestry land by devise, inheritance, or in the good faith collection of
7 debts by due process of law.

8 **SECTION 7.** 710.02 (2) (b) of the statutes is amended to read:

9 710.02 (2) (b) Citizens, foreign governments, or subjects of a foreign
10 government whose rights to hold larger quantities of agricultural or forestry land are
11 secured by treaty.

12 **SECTION 8.** 710.02 (2) (d) to (g) of the statutes are repealed.

13 **SECTION 9.** 710.02 (3) of the statutes is repealed.

14 **SECTION 10.** 710.02 (4) (a) 2. of the statutes is amended to read:

15 710.02 (4) (a) 2. If the interest in land is acquired, owned, or held under an
16 exception set forth in sub. (2), a statement ~~which~~ that sets forth the specific exception
17 and, if under sub. (2) (d), (e), (f) or (g), ~~the timetable and plan for conversion and~~
18 development to a purpose permitted under sub. (2) (d), (e), (f) or (g).

19 **SECTION 11.** 710.02 (5) of the statutes is amended to read:

20 710.02 (5) DIVESTITURE. (a) Interests ~~exceeding 640 in agricultural or forestry~~
21 land in excess of 50 acres that are acquired by persons under sub. (1) ~~(1r)~~ shall be
22 divested at the discretion of the holder to comply with sub. (1) ~~(1r)~~ within ~~4~~ 2 years
23 after:

24 1. Acquiring the interest, if the interest is described under sub. (2) (a) and the
25 person is subject to sub. (1) ~~(1r)~~ (a) ~~or~~, (b), or (d).

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1 2. Acquiring the interest or becoming subject to sub. ~~(1)~~ (1r) (c), whichever is
2 later, if the person is subject to sub. ~~(1)~~ (1r) (c).

3 (b) ~~Land~~ Agricultural or forestry land subject to divestiture under par. (a) may
4 not be managed to cause undue levels of soil erosion or to injure the long-range
5 productivity of the agricultural or forestry land. The ~~attorney general~~ secretary of
6 agriculture, trade and consumer protection may bring an action to enjoin ~~these~~ those
7 practices on the agricultural or forestry land.

8 **SECTION 12.** 710.02 (6) of the statutes is amended to read:

9 710.02 **(6)** FORFEITURES. Interests in lands agricultural or forestry land in
10 excess of ~~640~~ 50 acres that are ~~acquired, owned,~~ or held in violation of this section
11 are forfeited to the state. The holder of the interest shall determine which
12 agricultural or forestry lands are to be forfeited to comply with sub. ~~(1)~~ (1r).

13 **SECTION 13.** 710.02 (8) of the statutes is amended to read:

14 710.02 **(8)** ENFORCEMENT. The ~~attorney general~~ secretary of agriculture, trade
15 and consumer protection shall enforce this section.

16 **SECTION 14.** 710.02 (9) of the statutes is renumbered 710.02 (9) (a) and
17 amended to read:

18 710.02 **(9)** (a) ~~This section~~ Section 710.02, 2021 stats., applies to interests in
19 land acquired after July 1, 1982, and before the first day of the first month beginning
20 after the effective date of this paragraph [LRB inserts date]. No interest acquired
21 before July 1, 1982, is subject to divestiture or forfeiture under ~~this section s. 710.02,~~
22 2021 stats.

23 **SECTION 15.** 710.02 (9) (b) of the statutes is created to read:

24 710.02 **(9)** (b) This section applies to interests in land acquired on or after the
25 first day of the first month beginning after the effective date of this paragraph

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SECTION 15

1 [LRB inserts date]. No interest acquired before the first day of the first month
2 beginning after the effective date of this paragraph [LRB inserts date], is subject
3 to divestiture or forfeiture under this section.

4 (END)