

FIRST REGULAR SESSION

HOUSE BILL NO. 506

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RONE.

0080H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 442.571 and 442.592, RSMo, and to enact in lieu thereof three new sections relating to ownership limitations on agricultural property and products.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 442.571 and 442.592, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 261.171, 442.571, and 442.592, to read as follows:

261.171. 1. As used in this section, the following terms mean:

(1) "Agribusiness", any business with:

(a) A primary customer base of producers of agricultural goods and products; or

(b) A primary function of supporting agricultural production or processing by providing goods and services used for producing or processing agricultural products;

(2) "Agricultural commodity", any agricultural product that has been produced for purpose of sale or exchange. The term shall not be construed to include animals with a principal use that could be construed as recreational or as a pet;

(3) "Agricultural product", the same meaning as such term is defined in section 348.400;

(4) "Agricultural property", the same meaning as such term is defined in section 348.400;

(5) "Agriculture", the same meaning as such term is defined in section 290.500;

(6) "Agriculture-related business", any of the following that is located in or operating within this state:

(a) An agribusiness;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (b) An entity that produces, sells, buys, or provides agricultural commodities or
18 agricultural products;
- 19 (c) An entity that owns or leases agricultural property;
- 20 (d) An entity that engages in agriculture; or
- 21 (e) An entity that engages in or provides any agritourism or agritourism activity;
- 22 (7) "Agritourism", the same meaning as such term is defined in section 262.001;
- 23 (8) "Agritourism activity", the same meaning as such term is defined in section
24 537.850;
- 25 (9) "Foreign entity":
- 26 (a) An entity, other than an individual or a government, that is created or
27 organized under the laws of a nation other than the United States or that has its principal
28 place of business in a foreign nation and that is substantially controlled by a government
29 of a foreign nation or any combination of such entities or governments;
- 30 (b) An entity, other than an individual or a government, that is created or
31 organized under the laws of the United States or of some state, territory, trusteeship, or
32 protectorate of the United States and that is substantially controlled by one or more entities
33 described in paragraph (a) of this subdivision, a government of a foreign nation, or any
34 combination of such entities or governments; or
- 35 (c) A government of a foreign nation;
- 36 (10) "Substantial interest", any direct or indirect interest comprising five percent
37 or more of the ownership of an agriculture-related business.
- 38 2. Beginning on August 28, 2021, no foreign entity shall acquire by grant, purchase,
39 devise, descent, or otherwise any substantial interest in any agriculture-related business.
40 This subsection shall not be construed to apply to any foreign entity that has acquired a
41 substantial interest in an agriculture-related business before August 28, 2021.
- 442.571. 1. (1) (a) Except as provided in sections 442.586 and 442.591, no alien or
2 foreign business shall acquire by grant, purchase, devise, descent or otherwise agricultural land
3 in this state if the total aggregate alien and foreign ownership of agricultural acreage in this state
4 exceeds one percent of the total aggregate agricultural acreage in this state.
- 5 (b) Beginning on August 28, 2021, no alien or foreign business shall acquire by
6 grant, purchase, devise, descent, or otherwise agricultural land in a county if the total
7 aggregate alien and foreign ownership of agricultural acreage in such county exceeds one
8 percent of the total aggregate agricultural acreage in such county. This paragraph shall
9 not be construed to apply to any alien or foreign business that has acquired more than one
10 percent of the total aggregate agricultural acreage in a county before August 28, 2021.

11 (2) A sale or transfer of any agricultural land in this state shall be submitted to the
12 director of the department of agriculture for review in accordance with subsection 3 of this
13 section only if there is no completed Internal Revenue Service Form W-9 signed by the
14 purchaser. No person may hold agricultural land as an agent, trustee, or other fiduciary for an
15 alien or foreign business in violation of sections 442.560 to 442.592, provided, however, that no
16 security interest in such agricultural land shall be divested or invalidated by such violation.

17 2. Any alien or foreign business who acquires agricultural land in violation of sections
18 442.560 to 442.592 remains in violation of sections 442.560 to 442.592 for as long as ~~[he or she]~~
19 **the alien or foreign business** holds an interest in the land, provided, however, that no security
20 interest in such agricultural land shall be divested or invalidated by such violation.

21 3. (1) Subject to the provisions of subsection 1 of this section, such proposed
22 acquisitions by grant, purchase, devise, descent, or otherwise of agricultural land in this state
23 shall be submitted to the department of agriculture to determine whether such acquisition of
24 agricultural land is conveyed in accordance with the one percent restriction on the total aggregate
25 alien and foreign ownership of agricultural land in this state.

26 (2) **Beginning on August 28, 2021, any proposed acquisitions by grant, purchase,**
27 **devise, descent, or otherwise of agricultural land in a county shall be submitted to the**
28 **county assessor to determine whether such acquisition of agricultural land is conveyed in**
29 **accordance with the one percent restriction on the total aggregate alien and foreign**
30 **ownership of agricultural land in the county. Each county assessor shall develop a system**
31 **for tracking and determining the percentages of alien and foreign ownership of**
32 **agricultural land in the county.**

33 4. (1) **Beginning on August 28, 2021, any individual or entity that acquires**
34 **agricultural land by grant, purchase, devise, descent, or otherwise shall include a statement**
35 **of the ownership percentage and citizenship of each individual or entity involved in the sale**
36 **or transfer of the agricultural land when the instrument of sale or transfer is recorded in**
37 **the office of the recorder of deeds with jurisdiction over the agricultural land. The**
38 **statement shall include the same information required to be submitted to the department**
39 **of agriculture by foreign persons under section 442.592. The statement for an entity shall**
40 **include the percentage of ownership each individual with an ownership interest has in the**
41 **entity.**

42 (2) **After a statement is recorded under this subsection, the recorder shall transmit**
43 **a copy of the statement of ownership percentage and citizenship to the department of**
44 **agriculture within thirty days after the recording of such document.**

45 5. The department shall establish by rule the requirements for submission and approval
46 of requests under this subsection.

47 [4-] Any rule or portion of a rule, as that term is defined in section 536.010, that is
48 created under the authority delegated in this section shall become effective only if it complies
49 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
50 This section and chapter 536 are nonseverable, and if any of the powers vested with the general
51 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
52 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
53 any rule proposed or adopted after August 28, 2014, shall be invalid and void.

442.592. 1. ~~[For the purposes of]~~ **As used in this section, the [term] following terms**
2 **mean:**

3 **(1) "Foreign person" [means]:**

4 ~~[(1)]~~ **(a)** An individual who is not a citizen of the United States and who has not been
5 lawfully admitted to the United States for permanent residence under the Immigration and
6 Nationality Act or who has not been made a citizen by an act of Congress;

7 ~~[(2)]~~ **(b)** An entity, other than an individual or a government, that is created or organized
8 under the laws of a nation other than the United States, or that has its principal place of business
9 in a foreign nation;

10 ~~[(3)]~~ **(c)** An entity, other than an individual or a government, that is created or organized
11 under the laws of the United States or of some state, territory, trusteeship or protectorate of the
12 United States and that, as defined in regulations to be prescribed by the director, is substantially
13 controlled by individuals referred to in ~~[subdivision (1)]~~ **paragraph (a)** of this ~~[subsection]~~
14 **subdivision**, entities referred to in ~~[subdivision (2)]~~ **paragraph (b)** of this ~~[subsection]~~
15 **subdivision**, governments of foreign nations, or any combination of such individuals, entities,
16 or governments; and

17 ~~[(4)]~~ **(d)** A government of a foreign nation;

18 **(2) "Substantial interest", any interest comprising five percent or more of the**
19 **foreign person, directly or indirectly, through other persons or entities.**

20 2. Any foreign person who holds any interest ~~[f]~~, including leaseholds of ten or more
21 years and beneficial interests in the agricultural land under contracts of sale or similar
22 arrangements~~[s]~~, other than a security interest, in agricultural land on September 28, 1979, shall
23 submit, or have a designated agent submit, a report to the director of agriculture not later than
24 sixty days after September 28, 1979; provided, however, that no reporting requirement attaches
25 to any holding by an alien or a foreign person or a foreign business of an interest in agricultural
26 land for the extraction, refining, processing or transportation of oil, gas, coal or lignite. Such
27 report shall be submitted in such manner as the director shall prescribe by regulation and shall
28 contain:

29 (1) The legal name and address of the foreign person;

30 (2) In any case in which the foreign person is an individual, the citizenship of the foreign
31 person;

32 (3) In any case in which the foreign person is not an individual or a government:

33 (a) The nation in which the foreign person is created or organized;

34 (b) The principal place of business of the foreign person;

35 (c) The legal name and address of each person who holds a substantial interest [~~as~~
36 ~~defined in regulations to be prescribed by the director~~] in the foreign person and, in any case
37 which the holder of such an interest is an individual, the citizenship of the holder and, in any case
38 in which the holder of such an interest is not an individual or a government, the nation in which
39 the holder is created or organized and the principal place of business of the holder;

40 (4) The type of interest in the agricultural land that is held by the foreign person;

41 (5) A legal description of the agricultural land, including the county in which the land
42 is located and the total acreage involved;

43 (6) The date of acquisition of the interest and the purchase price paid for, or any other
44 consideration given for, the interest;

45 (7) A declaration of the type of agricultural activity engaged in by the reporting foreign
46 person;

47 (8) In the case where any foreign person holds an interest in agricultural land for the
48 purposes outlined in section 442.591, a declaration of intent as to the intended use of the land.

49 3. No rule or portion of a rule promulgated under the authority of sections 442.560 to
50 442.591 shall become effective unless it has been promulgated pursuant to the provisions of
51 section 536.024.

52 4. Any foreign person who acquires or transfers any interest [€] , including leaseholds
53 of ten years or more and beneficial interests in the agricultural land under contracts of sale or
54 similar arrangements[}], other than a security interest, in agricultural land shall submit, or have
55 a designated agent submit, a report to the director not later than thirty days after the date of such
56 acquisition or transfer; provided, however, that no reporting requirement attaches to an
57 acquisition or transfer by an alien or a foreign person or a foreign business of an interest in
58 agricultural land for the extraction, refining, processing, or transportation of oil, gas, coal or
59 lignite. Such report shall be submitted in such manner as the director shall prescribe by
60 regulation and shall contain:

61 (1) The legal name and address of the foreign person;

62 (2) In any case in which the foreign person is an individual, the citizenship of the foreign
63 person;

64 (3) In any case in which the foreign person is not an individual or a government:

65 (a) The nation in which the foreign person is created or organized;

66 (b) The principal place of business of the foreign person;

67 (c) The legal name and address of each person who holds a substantial interest [~~as~~
68 ~~defined in regulations to be prescribed by the director~~] in the foreign person and, in any case in
69 which the holder of such an interest is an individual, the citizenship of the holder and, in any case
70 in which the holder of such an interest is not an individual or a government, the nation in which
71 the holder is created or organized and the principal place of business of the holder;

72 (4) The type of interest in the agricultural land that is acquired or transferred by the
73 foreign person;

74 (5) A legal description of the agricultural land including the county in which the land is
75 located and the total acreage involved;

76 (6) The purchase price paid or received for, or any other consideration given or received
77 for, the interest;

78 (7) In any case in which the foreign person transfers the interest, the legal name and the
79 address of the person to whom the interest is transferred, and

80 (a) In any case in which the transferee is an individual, the citizenship of the transferee;
81 and

82 (b) In any case in which the transferee is not an individual or a government, the nation
83 in which the transferee is created or organized and the principal place of business of the
84 transferee;

85 (8) A declaration of the type of agricultural activity engaged in by the reporting foreign
86 person;

87 (9) In the case where any foreign person acquires an interest in agricultural land for the
88 purposes outlined in section 442.591, a declaration of intent as to the intended use of the land.

89 5. The director may promulgate rules and regulations pertaining to the form and content
90 of reports required by this section; the procedures for filing such reports; and the analysis and
91 distribution of findings and determinations based on the reports required by this section.

92 6. (1) The director shall:

93 (a) Analyze the information obtained under this section and determine the effects of
94 foreign persons acquiring, transferring and holding agricultural land, particularly the effects of
95 such acquisitions, transfers and holdings on family farms and rural communities; and

96 (b) Transmit to the governor and each house of the general assembly a report on the
97 director's findings and conclusions regarding each analysis and determination made under
98 paragraph (a) **[above] of this subdivision;**

99 (2) An analysis and determination shall be made, and a report on the director's findings
100 and conclusions regarding such analysis and determination transmitted:

101 (a) With respect to information obtained by the director under this section during the
102 six-month period following September 28, 1979, within nine months after such date;

103 (b) With respect to information obtained by the director under this section during the
104 twelve-month period following September 28, 1979, within fifteen months after such date; and

105 (c) With respect to each calendar year following the twelve-month period referred to in
106 paragraph (b) **of this subdivision**, within ninety days after the end of such calendar year.

107 7. Any foreign person who fails to file a report required under the provisions of this
108 section is liable to the state in civil penalty. The civil penalty shall be determined by the circuit
109 court in an amount not to exceed twenty-five percent of the fair market value of the interest in
110 agricultural land with respect to which the violations occurred on the date of the assessment of
111 the penalty. The attorney general shall recover the amount of any civil penalty assessed in a civil
112 action in the circuit court in the county in which any part of the land involved is located.

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