

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 903, 465, 430 & 499

102ND GENERAL ASSEMBLY

1743H.04P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 442.566, 442.571, 442.576, 442.591, and 442.592, RSMo, and to enact in lieu thereof five new sections relating to foreign ownership of real property.

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

Section A. Sections 442.566, 442.571, 442.576, 442.591, and 442.592, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 442.566,
3 442.571, 442.576, 442.591, and 442.592, to read as follows:

442.566. As used in sections 442.560 to 442.591, unless the context clearly requires
2 otherwise, the following terms mean:

3 (1) "Agricultural land", any tract of land in this state consisting of more than five
4 acres, whether inside or outside the corporate limits of any municipality, which is capable,
5 without substantial modification to the character of the land, of supporting an agricultural
6 enterprise, including but not limited to land used for the production of agricultural crops or
7 fruit or other horticultural products, or for the raising or feeding of animals for the production
8 of livestock or livestock products, poultry or poultry products, or milk or dairy products.
9 Adjacent parcels of land under the same ownership shall be deemed to be a single tract;

10 (2) "Alien", any person who is not a citizen of the United States and who is not a
11 resident of the United States or of some state, territory, trusteeship, or protectorate of the
12 United States;

13 (3) ~~["Director", the director of the Missouri department of agriculture;~~

14 (4) "Family members" includes all persons within the ninth degree of consanguinity,
15 or the living or surviving spouse of any person within the ninth degree of consanguinity;

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.

16 ~~[(5)]~~ (4) "Foreign business", any business entity whether or not incorporated,
17 including but not limited to, **companies**, corporations, **professional corporations**, **nonprofit**
18 **corporations**, **limited liability companies**, partnerships, limited partnerships, ~~[and]~~
19 associations, **or the equivalent of any entity listed in this subdivision**, in which a
20 controlling interest is owned by aliens **or organized under the laws of a foreign country, or**
21 **both**. In determining ownership of a foreign business, legal fictions such as corporate form or
22 trust shall be disregarded;

23 ~~[(6)]~~ (5) "Residence", the place of general abode; the place of general abode of a
24 person means ~~[his]~~ **the** principal, actual dwelling place in fact, where ~~[he]~~ **such person**
25 intends to remain permanently or for an indefinite period of time at least.

 442.571. 1. Except as provided in sections 442.586 and 442.591, **beginning August**
2 **28, 2023**, no alien or foreign business shall acquire by grant, purchase, devise, descent or
3 otherwise agricultural land in this state if the total aggregate alien and foreign ownership of
4 agricultural ~~[acreage]~~ **land** in this state exceeds **one-half of** one percent of the total aggregate
5 agricultural ~~[acreage]~~ **land** in this state. A sale or transfer of any agricultural land in this state
6 shall be submitted **by such alien or foreign business** to the ~~[director of the department of~~
7 ~~agriculture]~~ **attorney general and the secretary of state** for review in accordance with
8 subsection 3 of this section ~~[only if there is no completed Internal Revenue Service Form W-9~~
9 ~~signed by the purchaser]~~ **at least thirty calendar days prior to when such sale or transfer**
10 **of such agricultural land is finalized. The attorney general shall review such sale or**
11 **transfer and, within thirty days of receipt, approve or reject such transaction. If the**
12 **attorney general does not take action on such sale or transfer within thirty days, the**
13 **transaction shall be deemed to meet the requirements of this section. Such sale or**
14 **transfer submitted for review shall be deemed a closed record under chapter 610 until**
15 **such sale or transfer is finalized.** No person may hold agricultural land as an agent, trustee,
16 or other fiduciary for an alien or foreign business in violation of sections 442.560 to 442.592,
17 provided, however, that no security interest in such agricultural land shall be divested or
18 invalidated by such violation.

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

24 3. (1) Subject to the provisions of subsection 1 of this section, such proposed
25 acquisitions by grant, purchase, devise, descent, or otherwise of agricultural land in this state
26 shall be submitted to the ~~[department of agriculture]~~ **attorney general and the secretary of**
27 **state** to determine whether such acquisition of agricultural land is conveyed in accordance

28 with the **one-half of** one percent restriction on the total aggregate alien and foreign ownership
29 of agricultural land in this state. **Such submission shall be accomplished in the form and**
30 **manner established by the secretary of state. The attorney general shall review the**
31 **submissions that the attorney general receives under this subsection and investigate**
32 **such acquisitions of agricultural land if the attorney general believes such acquisition**
33 **violates this section.**

34 **(2) An alien or foreign business that acquires agricultural land in this state shall**
35 **report the status of the usage of the agricultural land. Such report shall be submitted to**
36 **the attorney general and the secretary of state upon the acquisition and every five years**
37 **thereafter. If the usage of the land changes from agricultural use to any other usage or**
38 **from any other usage to agricultural use, such change shall be reported within thirty**
39 **days of such change to the attorney general and the secretary of state.**

40 **(3) All agricultural land acquired in violation of this section is subject to a court**
41 **action and divestiture under section 442.576.**

42 **(4) The [department] attorney general and the secretary of state shall establish by**
43 **rule the requirements for submission and approval of requests under this subsection.**

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

52 **5. The limitations in this section on the percentage of acreage that an alien or**
53 **foreign business is authorized to acquire shall not apply to agricultural land that is used**
54 **for research or experimental purposes including, but not limited to:**

55 **(1) Testing, developing, or producing seeds or plants for sale or resale to**
56 **farmers; or**

57 **(2) Animal health research, animal nutrition research, raising genetic traits that**
58 **are used for human or animal research, and animals raised for exhibition.**

59 **6. (1) As used in this subsection, the following terms mean:**

60 **(a) "Land", any real property of any classification or subclassification within**
61 **this state;**

62 **(b) "Restrictive country", China, Iran, North Korea, Russia, or Venezuela.**

63 **(2) No foreign business in which a controlling interest is owned by an alien who**
64 **is a citizen of a restrictive country or that is organized under the laws of a restrictive**
65 **country shall purchase any land in this state.**

66 **(3) The governor, in consultation with the state homeland security advisory**
67 **council or such council's successor entity, shall review the list of restrictive countries**
68 **listed in paragraph (b) of subdivision (1) of this subsection every two years, or more**
69 **often if the national security relationships between such restrictive countries and the**
70 **United States change significantly, and make recommendations to the general assembly**
71 **for the reduction or expansion of such list.**

 442.576. 1. If the ~~[director]~~ **attorney general** finds that an alien or foreign business
2 or an agent, trustee, or other fiduciary therefor has acquired agricultural land in Missouri in
3 violation of sections 442.560 to 442.592, or the land ceases to be used for nonagricultural
4 purposes under section 442.591, he or she shall ~~report the violation to the attorney general.~~
5 ~~2. The attorney general shall~~ institute an action in the circuit court of Cole County or
6 the circuit court in any county in which agricultural land owned by the alien or foreign
7 business, agent, trustee or other fiduciary, alleged to have violated sections 442.560 to
8 442.592, is located.

9 ~~[3-]~~ **2.** The attorney general shall file a notice of the pendency of the action with the
10 recorder of deeds of each county in which any portion of such agricultural lands is located. If
11 the court finds that the lands in question have been acquired in violation of sections 442.560
12 to 442.592, it shall enter an order so declaring and shall file a copy of the order with the
13 recorder of deeds of each county in which any portion of the agricultural lands is located. The
14 court shall order the owner to divest ~~himself~~ **from ownership** of the agricultural land. The
15 owner must comply with the order within two years. The two-year limitation period shall be
16 a covenant running with the title to the land against any alien grantee or assignee. Provided,
17 however, an incorporated foreign business must divest itself of agricultural land within the
18 minimum time required by Article XI, Section 5, of the Missouri Constitution. Any
19 agricultural lands not divested within the time prescribed shall be ordered sold by the court at
20 a public sale in the manner prescribed by law for the foreclosure of a mortgage on real estate
21 for default in payment.

 442.591. The restrictions set forth in sections 442.560 to 442.592 shall not apply to
2 agricultural land or any interest therein acquired by an alien or foreign business for immediate
3 or potential use in nonfarming purposes. An alien or foreign business may hold such
4 agricultural land in such acreage as may be necessary to ~~[its]~~ **such alien's or foreign**
5 **business's** nonfarm business operation; provided, however, that pending the development of
6 agricultural land for nonfarm purposes, such land may not be used for farming except under
7 lease to a family farm unit; a family farm corporation defined in section 350.010; an alien or

8 foreign business which has filed with the ~~[director]~~ **secretary of state and the attorney**
9 **general** under sections 442.560 to 442.592; or except when controlled through ownership,
10 options, leaseholds or other agreements by a corporation which has entered into an agreement
11 with the United States of America pursuant to the New Community Act of 1968 (Title IV of
12 the Housing and Urban Development Act of 1969, 42 U.S.C. 3901-3914), as amended, or a
13 subsidiary or assignee of such a corporation.

442.592. 1. For the purposes of this section, the term "foreign person" means:

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

5 (2) An entity, other than an individual or a government, that is created or organized
6 under the laws of a nation other than the United States, or that has its principal place of
7 business in a foreign nation;

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

14 (4) **A foreign business, as defined in section 442.566; and**

15 (5) A government of a foreign nation.

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

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

26 (2) ~~In any case in which the foreign person is an individual, the citizenship of the~~
27 ~~foreign person;~~

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

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

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

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

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

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

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

42 ~~(7) A declaration of the type of agricultural activity engaged in by the reporting~~
43 ~~foreign person;~~

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

46 **3. No rule or portion of a rule promulgated under the authority of sections 442.560 to**
47 **442.591 shall become effective unless it has been promulgated pursuant to the provisions of**
48 **section 536.024] The secretary of state may promulgate all necessary rules and**
49 **regulations for the administration of this section. Any rule or portion of a rule, as that**
50 **term is defined in section 536.010, that is created under the authority delegated in this**
51 **section shall become effective only if it complies with and is subject to all of the**
52 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter**
53 **536 are nonseverable and if any of the powers vested with the general assembly**
54 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
55 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
56 **and any rule proposed or adopted after August 28, 2023, shall be invalid and void.**

57 **[4.] 3. Any foreign person who acquires or transfers any interest (including leaseholds**
58 **of ten years or more and beneficial interests in the agricultural land under contracts of sale or**
59 **similar arrangements), other than a security interest, in agricultural land shall submit, or have**
60 **a designated agent submit, a report to the [director] secretary of state and the attorney**
61 **general not later than thirty days after the date of such acquisition or transfer; provided,**
62 **however, that no reporting requirement attaches to an acquisition or transfer by an alien or a**
63 **foreign person or a foreign business of an interest in agricultural land for the extraction,**
64 **refining, processing, or transportation of oil, gas, coal or lignite. Such report shall be**
65 **submitted in such manner as the [director] secretary of state shall prescribe by regulation and**
66 **shall contain:**

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

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

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

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

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

73 (c) The legal name and address of each person who holds a substantial interest (as
74 defined in regulations to be prescribed by the ~~[director]~~ **secretary of state**) in the foreign
75 person and, in any case in which the holder of such an interest is an individual, the citizenship
76 of the holder and, in any case in which the holder of such an interest is not an individual or a
77 government, the nation in which the holder is created or organized and the principal place of
78 business of the holder;

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

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

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

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

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

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

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

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

97 ~~[5. The director may promulgate rules and regulations pertaining to the form and
98 content of reports required by this section; the procedures for filing such reports; and the
99 analysis and distribution of findings and determinations based on the reports required by this
100 section.~~

101 ~~6.]~~ **4. (1) The ~~[director]~~ secretary of state, in consultation with the attorney
102 general, shall:**

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

106 (b) Transmit to the governor and each house of the general assembly a report on the
107 ~~[director's]~~ findings and conclusions regarding each analysis and determination made under
108 paragraph (a) above;

109 (2) An analysis and determination shall be made, and a report on the ~~[director's]~~
110 findings and conclusions regarding such analysis and determination transmitted[=

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

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

115 ~~and~~

116 ~~(c) With respect to each calendar year following the twelve-month period referred to~~
117 ~~in paragraph (b),] within ninety days after the end of such calendar year.~~

118 [7.] 5. Any foreign person who fails to file a report required under the provisions of
119 this section is liable to the state in civil penalty. The civil penalty shall be determined by the
120 circuit court in an amount not to exceed twenty-five percent of the fair market value of the
121 interest in agricultural land with respect to which the violations occurred on the date of the
122 assessment of the penalty. The attorney general shall recover the amount of any civil penalty
123 assessed in a civil action in the circuit court in the county in which any part of the land
124 involved is located.

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