

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

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FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 903, 465, 430 & 499

AN ACT

To repeal sections 442.566, 442.571, 442.576, and 442.591, RSMo, and to enact in lieu thereof four new sections relating to foreign ownership of real property, with an emergency clause.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 442.566, 442.571, 442.576, and 442.591, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 442.566, 442.571, 442.576, and 442.591, to read as follows:

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

(1) "Agricultural land", any tract of land in this state consisting of more than five acres, whether inside or outside the corporate limits of any municipality, which is capable, without substantial modification to the character of the land, of supporting an agricultural enterprise, including but not limited

8 to land used for the production of agricultural crops or fruit or  
9 other horticultural products, or for the raising or feeding of  
10 animals for the production of livestock or livestock products,  
11 poultry or poultry products, or milk or dairy products. Adjacent  
12 parcels of land under the same ownership shall be deemed to be a  
13 single tract;

14 (2) "Alien", any person who is not a citizen of the United  
15 States and who is not a resident of the United States or of some  
16 state, territory, trusteeship, or protectorate of the United  
17 States;

18 (3) "Director", the director of the Missouri department of  
19 agriculture;

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

23 (5) "Foreign business", any business entity whether or not  
24 incorporated, including but not limited to companies,  
25 corporations, professional corporations, nonprofit corporations,  
26 limited liability companies, partnerships, limited partnerships,  
27 [and] associations, or the equivalent of any entity listed in this  
28 subdivision, in which a controlling interest is owned by aliens or  
29 organized under the laws of a foreign country, or both. In  
30 determining ownership of a foreign business, legal fictions such  
31 as corporate form or trust shall be disregarded;

32 (6) "Residence", the place of general abode; the place of  
33 general abode of a person means his principal, actual dwelling  
34 place in fact, where he intends to remain permanently or for an

35 indefinite period of time at least.

442.571. 1. Except as provided in sections 442.586 and  
2 442.591, ~~[no alien or foreign business shall acquire by grant,~~  
3 ~~purchase, devise, descent or otherwise agricultural land in this~~  
4 ~~state if the total aggregate alien and foreign ownership of~~  
5 ~~agricultural acreage in this state exceeds one percent of the total~~  
6 ~~aggregate agricultural acreage in this state. A sale or transfer~~  
7 ~~of any agricultural land in this state shall be submitted to the~~  
8 ~~director of the department of agriculture for review in accordance~~  
9 ~~with subsection 3 of this section only if there is no completed~~  
10 ~~Internal Revenue Service Form W-9 signed by the purchaser]~~  
11 beginning on the effective date of this section, no alien, foreign  
12 business, or foreign government shall acquire by grant, purchase,  
13 devise, descent, or otherwise any agricultural land in this state.  
14 Any alien, foreign business, or foreign government who acquired  
15 any agricultural land in this state prior to the effective date of  
16 this section shall not grant, sell, or otherwise transfer such  
17 agricultural land to any other alien, foreign business, or foreign  
18 government on or after the effective date of this section. No  
19 person may hold agricultural land as an agent, trustee, or other  
20 fiduciary for an alien ~~[or]~~, foreign business, or foreign  
21 government in violation of sections 442.560 to 442.592, provided,  
22 however, that no security interest in such agricultural land shall  
23 be divested or invalidated by such violation.

2. Any alien ~~[or]~~, foreign business, or foreign government  
25 who acquires agricultural land in violation of sections 442.560 to  
26 442.592 remains in violation of sections 442.560 to 442.592 for as

27 long as ~~[he or she]~~ the alien, foreign business, or foreign  
28 government holds an interest in the land, provided, however, that  
29 no security interest in such agricultural land shall be divested or  
30 invalidated by such violation.

31 3. Subject to the provisions of subsection 1 of this section,  
32 ~~[such]~~ all proposed [acquisitions] transfers on or after the  
33 effective date of this section by grant, purchase, devise,  
34 descent, or otherwise of any interest in agricultural land held by  
35 any alien, foreign business, or foreign government in this state  
36 shall be submitted at least thirty calendar days prior to when such  
37 transfers of such agricultural land are finalized to the  
38 department of agriculture to determine whether such ~~[acquisition]~~  
39 transfer of agricultural land, or if land usage changes, is  
40 conveyed in accordance with the ~~[one percent restriction on the~~  
41 ~~total aggregate]~~ prohibition on alien and foreign ownership of  
42 agricultural land in this state under this section. Such sale or  
43 transfer submitted for review shall be deemed a closed record under  
44 chapter 610 until such sale is finalized. The department shall  
45 establish by rule the requirements for submission and approval of  
46 requests under this subsection.

47 4. Any rule or portion of a rule, as that term is defined in  
48 section 536.010, that is created under the authority delegated in  
49 this section shall become effective only if it complies with and is  
50 subject to all of the provisions of chapter 536 and, if applicable,  
51 section 536.028. This section and chapter 536 are nonseverable and  
52 if any of the powers vested with the general assembly pursuant to  
53 chapter 536 to review, to delay the effective date, or to

54 disapprove and annul a rule are subsequently held  
55 unconstitutional, then the grant of rulemaking authority and any  
56 rule proposed or adopted after August 28, 2014, shall be invalid  
57 and void.

442.576. 1. If the director finds that an alien ~~[or]~~,  
2 foreign business, or foreign government or an agent, trustee, or  
3 other fiduciary therefor has acquired agricultural land in  
4 Missouri ~~[in violation of sections 442.560 to 442.592]~~ after the  
5 effective date of this section, or the land ceases to be used for  
6 nonagricultural purposes under section 442.591, he or she shall  
7 report the violation to the attorney general.

8 2. The attorney general shall institute an action in the  
9 circuit court of Cole County or the circuit court in any county in  
10 which agricultural land owned by the alien or foreign business,  
11 agent, trustee or other fiduciary, alleged to have violated  
12 sections 442.560 to 442.592, is located.

13 3. The attorney general shall file a notice of the pendency  
14 of the action with the recorder of deeds of each county in which  
15 any portion of such agricultural lands is located. If the court  
16 finds that the lands in question have been acquired in violation of  
17 sections 442.560 to 442.592, it shall enter an order so declaring  
18 and shall file a copy of the order with the recorder of deeds of  
19 each county in which any portion of the agricultural lands is  
20 located. The court shall order the owner to divest himself of the  
21 agricultural land. The owner must comply with the order within two  
22 years. The two-year limitation period shall be a covenant running  
23 with the title to the land against any alien grantee or assignee.

24 Provided, however, an incorporated foreign business must divest  
25 itself of agricultural land within the minimum time required by  
26 Article XI, Section 5, of the Missouri Constitution. Any  
27 agricultural lands not divested within the time prescribed shall  
28 be ordered sold by the court at a public sale in the manner  
29 prescribed by law for the foreclosure of a mortgage on real estate  
30 for default in payment.

442.591. The restrictions set forth in sections 442.560 to  
2 442.592 shall not apply to agricultural land or any interest  
3 therein acquired by an alien or foreign business for immediate or  
4 potential use in nonfarming purposes. An alien or foreign business  
5 may hold such agricultural land in such acreage as may be necessary  
6 to its nonfarm business operation; provided, however, that pending  
7 the development of agricultural land for nonfarm purposes, such  
8 land may not be used for farming except under lease to a family  
9 farm unit; a family farm corporation defined in section 350.010; an  
10 alien or foreign business which has filed with the director under  
11 sections 442.560 to 442.592; or except when controlled through  
12 ownership, options, leaseholds or other agreements by a  
13 corporation which has entered into an agreement with the United  
14 States of America pursuant to the New Community Act of 1968 (Title  
15 IV of the Housing and Urban Development Act of 1969, 42 U.S.C.  
16 3901-3914), as amended, or a subsidiary or assignee of such a  
17 corporation. As used in this section, the term "nonfarming"  
18 includes, but is not limited to, the conducting and active  
19 operation of research or experimentation for the purpose of  
20 developing or improving any type of agricultural practice, tool,

21 device, or implement or animal health research, animal nutrition  
22 research, raising genetic traits that are used for human or animal  
23 research, or animals raised for exhibition.

Section B. Because of the dangers of foreign ownership of  
2 agricultural land, section A of this act is deemed necessary for  
3 the immediate preservation of the public health, welfare, peace,  
4 and safety, and is hereby declared to be an emergency act within  
5 the meaning of the constitution, and section A of this act shall be  
6 in full force and effect upon its passage and approval.

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House Sponsor

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Senate Handler