

# SENATE BILL NO. 1153

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR NICOLA.

5619S.011

KRISTINA MARTIN, Secretary

## AN ACT

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

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

Section A. Sections 442.566, 442.571, 442.576, and  
2 442.591, RSMo, are repealed and five new sections enacted in  
3 lieu thereof, to be known as sections 442.566, 442.571, 442.576,  
4 442.591, and 442.593, to read as follows:

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

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

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

20           (3) "Director", the director of the Missouri  
21 department of agriculture;

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

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

36           (6) "Residence", the place of general abode; the place  
37 of general abode of a person means his principal, actual  
38 dwelling place in fact, where he intends to remain  
39 permanently or for an indefinite period of time at least.

442.571. 1. Except as provided in sections 442.586  
2 and 442.591, [no alien or foreign business shall acquire by  
3 grant, purchase, devise, descent or otherwise agricultural  
4 land in this state if the total aggregate alien and foreign  
5 ownership of agricultural acreage in this state exceeds one  
6 percent of the total aggregate agricultural acreage in this  
7 state. A sale or transfer of any agricultural land in this  
8 state shall be submitted to the director of the department

9 of agriculture for review in accordance with subsection 3 of  
10 this section only if there is no completed Internal Revenue  
11 Service Form W-9 signed by the purchaser] **beginning on the**  
12 **effective date of this act, no alien, foreign business, or**  
13 **foreign government shall acquire by grant, purchase, devise,**  
14 **descent, or otherwise any agricultural land in this state,**  
15 **including for nonfarming purposes, as defined in section**  
16 **442.591. Any alien, foreign business, or foreign government**  
17 **who acquired any agricultural land in this state prior to**  
18 **the effective date of this act shall not grant, sell, or**  
19 **otherwise transfer such agricultural land to any other**  
20 **alien, foreign business, or foreign government on or after**  
21 **the effective date of this act.** No person may hold  
22 agricultural land as an agent, trustee, or other fiduciary  
23 for an alien [or], foreign business, **or foreign government**  
24 in violation of sections 442.560 to [442.592] **442.593,**  
25 provided, however, that no security interest in such  
26 agricultural land shall be divested or invalidated by such  
27 violation.

28 2. Any alien [or], foreign business, **or foreign**  
29 **government** who acquires agricultural land in violation of  
30 sections 442.560 to [442.592] **442.593** remains in violation  
31 of sections 442.560 to [442.592] **442.593** for as long as [he  
32 or she] **the alien, foreign business, or foreign government**  
33 holds an interest in the land, provided, however, that no  
34 security interest in such agricultural land shall be  
35 divested or invalidated by such violation.

36 3. Subject to the provisions of subsection 1 of this  
37 section, [such] **all proposed [acquisitions] transfers on or**  
38 **after the effective date of this act** by grant, purchase,  
39 devise, descent, or otherwise of **any interest in**  
40 agricultural land **held by any alien, foreign business, or**

41 **foreign government** in this state shall be submitted **at least**  
42 **thirty calendar days prior to when such transfers of such**  
43 **agricultural land are finalized** to the department of  
44 agriculture to determine whether such **[acquisition]** **transfer**  
45 of agricultural land, **or if land usage changes**, is conveyed  
46 in accordance with the **[one percent restriction on the total**  
47 **aggregate]** **prohibition on** alien and foreign ownership of  
48 agricultural land in this state **under this act. Such sale**  
49 **or transfer submitted for review shall be deemed a closed**  
50 **record under chapter 610 until such sale is finalized.** The  
51 department shall establish by rule the requirements for  
52 submission and approval of requests under this subsection.

53 4. Any rule or portion of a rule, as that term is  
54 defined in section 536.010, that is created under the  
55 authority delegated in this section shall become effective  
56 only if it complies with and is subject to all of the  
57 provisions of chapter 536 and, if applicable, section  
58 536.028. This section and chapter 536 are nonseverable and  
59 if any of the powers vested with the general assembly  
60 pursuant to chapter 536 to review, to delay the effective  
61 date, or to disapprove and annul a rule are subsequently  
62 held unconstitutional, then the grant of rulemaking  
63 authority and any rule proposed or adopted after August 28,  
64 2014, shall be invalid and void.

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

9           2. The attorney general shall institute an action in  
10 the circuit court of Cole County or the circuit court in any  
11 county in which agricultural land owned by the alien or  
12 foreign business, agent, trustee or other fiduciary, alleged  
13 to have violated sections 442.560 to [442.592] **442.593**, is  
14 located.

15           3. The attorney general shall file a notice of the  
16 pendency of the action with the recorder of deeds of each  
17 county in which any portion of such agricultural lands is  
18 located. If the court finds that the lands in question have  
19 been acquired in violation of sections 442.560 to [442.592]  
20 **442.593**, it shall enter an order so declaring and shall file  
21 a copy of the order with the recorder of deeds of each  
22 county in which any portion of the agricultural lands is  
23 located. The court shall order the owner to divest himself  
24 of the agricultural land. The owner must comply with the  
25 order within two years. The two-year limitation period  
26 shall be a covenant running with the title to the land  
27 against any alien grantee or assignee. Provided, however,  
28 an incorporated foreign business must divest itself of  
29 agricultural land within the minimum time required by  
30 Article XI, Section 5, of the Missouri Constitution. Any  
31 agricultural lands not divested within the time prescribed  
32 shall be ordered sold by the court at a public sale in the  
33 manner prescribed by law for the foreclosure of a mortgage  
34 on real estate for default in payment.

          442.591. [The restrictions set forth in sections  
2 442.560 to 442.592 shall not apply to agricultural land or  
3 any interest therein acquired by an alien or foreign  
4 business for immediate or potential use in nonfarming  
5 purposes. An alien or foreign business may hold such  
6 agricultural land in such acreage as may be necessary to its

7 nonfarm business operation; provided, however, that pending  
8 the development of agricultural land for nonfarm purposes,  
9 such land may not be used for farming except under lease to  
10 a family farm unit; a family farm corporation defined in  
11 section 350.010; an alien or foreign business which has  
12 filed with the director under sections 442.560 to 442.592;  
13 or except when controlled through ownership, options,  
14 leaseholds or other agreements by a corporation which has  
15 entered into an agreement with the United States of America  
16 pursuant to the New Community Act of 1968 (Title IV of the  
17 Housing and Urban Development Act of 1969, 42 U.S.C. 3901-  
18 3914), as amended, or a subsidiary or assignee of such a  
19 corporation.] 1. As used in this section, the following

20 terms mean:

21 (1) "Foreign adversary", any foreign government or  
22 person identified as a foreign adversary in 15 CFR 791.4;

23 (2) "Nonfarming", includes, but is not limited to, the  
24 conducting and active operation of research or  
25 experimentation for the purpose of developing or improving  
26 any type of agricultural practice, tool, device, or  
27 implement, or animal health research, animal nutrition  
28 research, raising genetic traits that are used for human or  
29 animal research, or animals raised for exhibition.

30 2. Beginning on the effective date of this section, no  
31 foreign adversary shall own agricultural land in this state  
32 for nonfarming purposes.

442.593. 1. After the effective date of this act, an  
2 alien, foreign business, or foreign government shall not  
3 acquire any agricultural land in the state for any purpose  
4 within five miles from:

5 (1) Any reservation, post, arsenal, proving ground,  
6 range, mine field, camp, base, airfield, fort, yard,

7 station, district, or area of the Armed Forces of the United  
8 States; or

9 (2) Any commercial establishment engaged in the  
10 development or manufacture of classified military or naval  
11 arms, munitions, equipment, designs, ships, aircraft, or  
12 vessels for the Armed Forces of the United States.

13 2. Any alien, foreign business, or foreign government  
14 who acquired agricultural land described in subsection 1 of  
15 this section in the state prior to the effective date of  
16 this act shall divest itself of the agricultural land.

17 3. The attorney general shall enforce provisions of  
18 this section. Any individual may report violations of this  
19 section to the attorney general. If the attorney general  
20 believes that a violation occurred, the attorney general  
21 shall commence a civil action in a court of competent  
22 jurisdiction.

23 4. The attorney general shall file a notice of the  
24 pendency of the action with the recorder of deeds of each  
25 county in which any portion of agricultural land under this  
26 section is located.

27 5. If the court finds that a violation of this section  
28 has occurred, the court shall enter an order so declaring  
29 and shall file a copy of the order with the recorder of  
30 deeds of each county in which any portion of the  
31 agricultural land under this section is located. The court  
32 shall order the owner to divest itself of the agricultural  
33 land. The owner shall comply with the order within three  
34 years. Any agricultural land not divested within the three  
35 years period under this subsection shall be ordered sold by  
36 the court at a public sale in the manner prescribed by law  
37 for the foreclosure of a mortgage on real estate for default  
38 in payment.

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

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