

SENATE BILL NO. 1248

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (15).

5077S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 442.566, RSMo, and to enact in lieu thereof two new sections relating to prohibiting the acquisition and ownership of real property by certain foreign interests, with penalty provisions.

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

Section A. Section 442.566, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 442.566 and 442.568, 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) "Company", a sole proprietorship, organization,
21 association, corporation, partnership, joint venture,
22 limited partnership, limited liability partnership, or
23 limited liability company, including a wholly-owned
24 subsidiary, majority-owned subsidiary, parent company, or
25 affiliate of those entities or business associations, that
26 exists to make a profit;

27 (4) "Designated country", any of the following:

28 (a) A country identified by the United States Director
29 of National Intelligence as a country that poses a risk to
30 the national security of the United States in at least one
31 of the three most recent annual threat assessments of the
32 U.S. intelligence community issued pursuant to Section 108B,
33 federal National Security Act of 1947 (50 U.S.C. Section
34 3043b); or

35 (b) A country designated by the governor pursuant to
36 section 442.568;

37 (5) "Director", the director of the Missouri
38 department of agriculture;

39 (6) "Domiciled", having established a place as an
40 individual's true, fixed, and permanent home and principal
41 residence to which the individual intends to return whenever
42 absent;

43 [(4)] (7) "Family members" includes all persons within
44 the ninth degree of consanguinity, or the living or
45 surviving spouse of any person within the ninth degree of
46 consanguinity;

47 [(5)] (8) "Foreign business", any business entity
48 whether or not incorporated, including but not limited to
49 corporations, partnerships, limited partnerships, and
50 associations, in which a controlling interest is owned by
51 aliens. In determining ownership of a foreign business,
52 legal fictions such as corporate form or trust shall be
53 disregarded;

54 (9) "Organization", a business trust, real estate
55 investment trust, joint stock company, cooperative,
56 association, bank, insurance company, credit union, savings
57 and loan association, or other organization, regardless of
58 whether the organization is for-profit, nonprofit, domestic,
59 or foreign;

60 (10) "Real property", includes the following:

- 61 (a) Agricultural land;
- 62 (b) An improvement located on agricultural land;
- 63 (c) Commercial property;
- 64 (d) Industrial property;
- 65 (e) Groundwater;
- 66 (f) Residential property;
- 67 (g) A mine or quarry;
- 68 (h) A mineral in place;
- 69 (i) Standing timber; or
- 70 (j) Water rights;

71 [(6)] (11) "Residence", the place of general abode;
72 the place of general abode of a person means his principal,
73 actual dwelling place in fact, where he intends to remain
74 permanently or for an indefinite period of time at least;

75 (12) "Transnational criminal organization", two or
76 more persons:

77 (a) Who are citizens of or domiciled in a designated
78 country;

79 (b) With an identifiable leadership who operate
80 internationally; and

81 (c) Who continuously or regularly associate to engage
82 in corruption, violence, or the commission of other criminal
83 activities.

 442.568. 1. The following may not purchase or
2 otherwise acquire an interest in real property in this state:

3 (1) A governmental entity of a designated country;

4 (2) A company or organization that is:

5 (a) Headquartered in a designated country;

6 (b) Directly or indirectly held or controlled by the
7 government of a designated country;

8 (c) Owned by or the majority of stock or other
9 ownership interest of which is held or controlled by
10 individuals described by subdivision (4) of this subsection;
11 or

12 (d) Designated by the governor under subsection 2 of
13 this section;

14 (3) A company or organization that is owned by or the
15 majority of stock or other ownership interest of which is
16 held or controlled by a company or organization described by
17 subdivision (2) of this subsection; or

18 (4) An individual who:

19 (a) Is domiciled in a designated country, except that
20 an individual who is lawfully present and residing in the
21 United States at the time the individual purchases or
22 acquires the interest may purchase or acquire an interest in
23 a residential property that is intended for use as an
24 individual's residence homestead;

25 (b) Is a citizen of a designated country who is
26 domiciled outside of the United States in a country:

27 a. Other than a designated country; and

28 b. For which the individual has not completed the
29 naturalization process for becoming a citizen of that
30 country;

31 (c) Is a citizen of a designated country who is
32 unlawfully present in the United States;

33 (d) Is:

34 a. A citizen of a country other than the United
35 States; and

36 b. Acting as an agent or on behalf of a designated
37 country; or

38 (e) Is a member of the ruling political party or any
39 subdivision of the ruling political party in a designated
40 country.

41 2. (1) The governor, after consultation with the
42 director of the department of public safety, may, for
43 purposes of subsection 1 of this section:

44 (a) Determine whether the purchase or acquisition of
45 an interest in real property in this state by an individual
46 company, organization, or other entity poses a risk to the
47 national security of the public; and

48 (b) Based on a determination made under paragraph (a)
49 of this subdivision:

50 a. Designate a country or a transnational criminal
51 organization or other entity as subject to this section; or

52 b. Remove a designation made pursuant to subparagraph
53 a of this paragraph.

54 (2) The designation or removal of the designation made
55 pursuant to this subsection applies only to the purchase or
56 acquisition of an interest in real property that occurs on
57 or after the date the governor designates or removes the
58 designation.

59 3. (1) The attorney general shall establish
60 procedures to examine a purchase or acquisition of an
61 interest in real property and determine whether an
62 investigation of a possible violation of this section is
63 warranted.

64 (2) If the attorney general determines that an
65 investigation of a purchase or acquisition of an interest in
66 real property is warranted under this section, the attorney
67 general shall investigate the purchase or acquisition of an
68 interest in real property and determine whether a violation
69 of this section occurred.

70 (3) If the attorney general determines that a
71 violation of this section occurred, the attorney general may:

72 (a) Bring an in rem action against real property to
73 enforce this section in a circuit court in the county where
74 all or part of the real property that is the subject of the
75 violation is located; and

76 (b) Refer the matter to the appropriate local, state,
77 or federal law enforcement agency.

78 (4) The attorney general shall record notice of an
79 action brought under subdivision (3) of this subsection in
80 the real property records of each county where any part of
81 the real property subject to the action is located.

82 (5) Except for an acquisition of a leasehold interest,
83 a purchase or acquisition of an interest in real property in
84 violation of this section is not void because of the
85 violation, and the validity or enforceability by any person
86 of a purchase contract for or the conveyance of an interest
87 in the real property is not otherwise affected by the
88 violation.

89 4. (1) If the circuit court finds that the real
90 property subject to an action brought pursuant to this

91 section was purchased or an interest in the real property
92 was otherwise acquired in violation of this section, the
93 court shall:

94 (a) Enter an order that:

95 a. States the court's finding;

96 b. Orders the divestment of the individual's or
97 entity's interest in the real property; and

98 c. Appoints a receiver to:

99 (i) Divest the individual's or entity's interest in
100 the real property through sale, termination of a leasehold,
101 or other disposition of the interest; and

102 (ii) Manage and control the real property pending the
103 sale or other disposition of the interest in the real
104 property; and

105 (b) Refer the matter to the appropriate prosecuting
106 attorney for criminal prosecution of any appropriate
107 criminal offense in connection with the transaction.

108 (2) On appointment and qualification, a receiver
109 appointed under this section has the powers and duties of a
110 receiver pursuant to chapter 515.

111 (3) Proceeds from the sale or other disposition of an
112 interest in real property under an order described by
113 subdivision (1) of this subsection shall be applied first to
114 satisfy any existing liens on the property and then to pay
115 the reasonable costs incurred by the state in enforcing this
116 section. The remaining proceeds shall be remitted to the
117 individual or entity that purchased or otherwise acquired
118 the interest in violation of this section.

119 5. (1) A person commits the offense of unlawful
120 purchase of real property by an alien if the person:

121 (a) Is an individual described by subdivision (4) of
122 subsection 1 of this section; and

123 (b) Intentionally or knowingly purchases or otherwise
124 acquires an interest in real property in this state in
125 violation of this section.

126 (2) The offense of unlawful purchase of real property
127 by an alien is a class E felony.

128 6. (1) The attorney general may bring an action in
129 the name of the state against a company, organization, or
130 other entity that violates this section.

131 (2) A company, organization, or other entity that a
132 court determines in an action brought pursuant to this
133 section to have violated this section is liable to the state
134 for a civil penalty equal to the greater of:

135 (a) Two hundred fifty thousand dollars; or

136 (b) Fifty percent of the market value of the interest
137 in real property that is the subject of the violation.

✓