

SENATE BILL NO. 885

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

5526S.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 four 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2 442.591, RSMo, are repealed and four new sections enacted in
3 lieu thereof, to be known as sections 442.566, 442.571, 442.576,
4 and 442.591, 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 **Any alien, foreign business, or foreign government who**
16 **acquired any agricultural land in this state prior to the**
17 **effective date of this act shall not grant, sell, or**
18 **otherwise transfer such agricultural land to any other**
19 **alien, foreign business, or foreign government on or after**
20 **the effective date of this act.** No person may hold
21 agricultural land as an agent, trustee, or other fiduciary
22 for an alien [or], foreign business, **or foreign government**
23 in violation of sections 442.560 to 442.592, provided,
24 however, that no security interest in such agricultural land
25 shall be divested or invalidated by such violation.

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

34 3. Subject to the provisions of subsection 1 of this
35 section, [such] **all proposed [acquisitions] transfers on or**
36 **after the effective date of this act** by grant, purchase,
37 devise, descent, or otherwise of **any interest in**
38 **agricultural land held by any alien, foreign business, or**
39 **foreign government** in this state shall be submitted **at least**
40 **thirty calendar days prior to when such transfers of such**

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

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

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

442.591. 1. **As used in this section, the following**
2 **terms mean:**

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

5 (2) **"Nonfarming", includes, but is not limited to, the**
6 **conducting and active operation of research or**
7 **experimentation for the purpose of developing or improving**
8 **any type of agricultural practice, tool, device, or**
9 **implement, or animal health research, animal nutrition**

10 **research, raising genetic traits that are used for human or**
11 **animal research, or animals raised for exhibition.**

12 **2.** The restrictions set forth in sections 442.560 to
13 442.592 shall not apply to agricultural land or any interest
14 therein acquired by an alien or foreign business for
15 immediate or potential use in nonfarming purposes. An alien
16 or foreign business may hold such agricultural land in such
17 acreage as may be necessary to its nonfarm business
18 operation; provided, however, that pending the development
19 of agricultural land for nonfarm purposes, such land may not
20 be used for farming except under lease to a family farm
21 unit; a family farm corporation defined in section 350.010;
22 an alien or foreign business which has filed with the
23 director under sections 442.560 to 442.592; or except when
24 controlled through ownership, options, leaseholds or other
25 agreements by a corporation which has entered into an
26 agreement with the United States of America pursuant to the
27 New Community Act of 1968 (Title IV of the Housing and Urban
28 Development Act of 1969, 42 U.S.C. 3901-3914), as amended,
29 or a subsidiary or assignee of such a corporation.

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

 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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