

**103RD GENERAL ASSEMBLY****State of Illinois****2023 and 2024****SB2668**

Introduced 1/10/2024, by Sen. Sally J. Turner

**SYNOPSIS AS INTRODUCED:**

See Index

Amends the Property Owned By Noncitizens Act. Provides that a prohibited foreign-party-controlled business shall not acquire by grant, purchase, devise, descent, or otherwise any interest in public or private land in the State. Provides that a prohibited foreign-party-controlled business entity in violation of the provisions has 2 years to divest of the public or private land, and if a prohibited foreign-party-controlled business entity does not divest the public or private land, the Attorney General shall commence an action in the circuit court within the jurisdiction of the public or private land. Provides that a prohibited foreign party shall not acquire by grant, purchase, devise, descent, or otherwise any interest in agricultural land in the State regardless of whether the prohibited foreign party intends to use the agricultural land for nonfarming purposes. Provides that a prohibited foreign party who is a resident alien of the United States shall have the right to acquire and hold agricultural land in the State upon the same terms as a citizen of the United States during the continuance of his or her residence in the State, but if a prohibited foreign party is no longer a resident alien, he or she shall have 2 years to divest of the agricultural land, and that if the prohibited foreign party does not divest of the agricultural land as required, the Attorney General shall commence an action in circuit court within the jurisdiction of the agricultural land. Provides that violation of the provisions by either a prohibited foreign-party-controlled business entity or a prohibited foreign party owning agricultural land shall, upon conviction, be guilty of a Class 4 felony punishable by not more than 2 years imprisonment in the custody of the Department of Corrections or a \$15,000 fine, or both. Creates the Office of Agricultural Intelligence within the Department of Agriculture to collect and analyze information concerning the unlawful sale or possession of agricultural land by prohibited foreign parties and administer and enforce the provisions of the Act.

LRB103 34872 LNS 64735 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Policy. It is the declared policy of the State  
5 to conserve, protect, and encourage the development and  
6 improvement of its agricultural and forest lands and other  
7 facilities for the production of food, fiber, and other  
8 agricultural and silvicultural products.

9 Section 5. The Property Owned By Noncitizens Act is  
10 amended by changing Section 7 and by adding Sections 1, 9, 10,  
11 11, and 12 as follows:

12 (765 ILCS 60/1 new)

13 Sec. 1. Definitions. As used in this Act:

14 "Agricultural land" means any land in the State that is  
15 outside the corporate limits of a municipality and is:

16 (1) used for forestry production, including, but not  
17 limited to, land exceeding 10 acres in which 10% of the  
18 land is stocked by trees of any size, including land that  
19 formerly had trees of any size covering the land that will  
20 be naturally or artificially regenerated; or

21 (2) currently used for, or, if currently idle, land  
22 last used within the past 5 years, for farming, ranching,

1 or timber production, except land not exceeding 10 acres  
2 in the aggregate, if the annual gross receipts from the  
3 sale of the farm, ranch, or timber products produced on  
4 the land do not exceed \$1,000, including, but not limited  
5 to, land used for activities described in the Standard  
6 Industrial Classification Manual (1987), Division A,  
7 exclusive of industry numbers 0711-0783, 0851, and  
8 0912-0919, which cover animal trapping, game management,  
9 hunting carried on as a business enterprise, trapping  
10 carried on as a business enterprise, and wildlife  
11 management.

12 "Agricultural land" does not include oil, gas, and all  
13 other minerals, including coal, lignite, brine, and all  
14 minerals known and recognized as commercial minerals  
15 underlying the land.

16 "Controlling interest" means an ownership interest of 50%  
17 or more, in the aggregate.

18 "Foreign government" means any government other than (i)  
19 the federal government or (ii) the government of a state or a  
20 political subdivision of a state.

21 "Interest in agricultural land" means the direct interest  
22 acquired, transferred, or held in agricultural land,  
23 including, but not limited to, a lease of agricultural land:

24 (1) for a term of one year or longer; or

25 (2) renewable by option for terms that, if the options  
26 were all exercised, would total one year.

1       "Party" means any individual, corporation, company,  
2 association, firm, partnership, society, joint-stock company,  
3 trust, estate, or any other legal entity.

4       "Prohibited foreign-party-controlled business" means a  
5 corporation, company, association, firm, partnership, society,  
6 joint-stock company, trust, estate, or other legal entity  
7 whose controlling interest is owned by a prohibited foreign  
8 party.

9       "Prohibited foreign party" means:

10       (1) a citizen or resident of a country subject to the  
11 International Traffic in Arms Regulation, 22 CFR 120-130;

12       (2) a foreign government formed within a country  
13 subject to the International Traffic in Arms Regulation,  
14 22 CFR 120-130;

15       (3) a party, other than an individual or a government,  
16 created or organized under the laws of a foreign  
17 government within a country subject to the International  
18 Traffic in Arms Regulation, 22 CFR 120-130;

19       (4) any party, other than an individual or a  
20 government:

21           (A) that is created or organized under the laws of  
22 any state; and

23           (B) in which a significant interest or substantial  
24 control is directly or indirectly held or is capable  
25 of being exercised by:

26           (i) an individual referred to in paragraph (1)

1 of this definition;

2 (ii) a foreign government referred to in  
3 paragraph (2) of this definition;

4 (iii) a party referred to in paragraph (3) of  
5 this definition; or

6 (iv) a combination of the individuals,  
7 parties, or governments referred to in this  
8 subparagraph;

9 (5) an entity of particular concern designated by the  
10 United States Department of State; or

11 (6) an agent, trustee, or other fiduciary of a person  
12 or entity enumerated in paragraphs (1) through (5) of this  
13 definition.

14 "Residence" means a person's principal dwelling place  
15 where the person intends to remain permanently for an  
16 indefinite period of time.

17 "Resident alien" means a person who:

18 (1) is not a citizen of the United States; and

19 (2) is a resident of a:

20 (A) state of the United States;

21 (B) territory of the United States;

22 (C) trusteeship of the United States; or

23 (D) protectorate of the United States.

24 "Significant interest" or "substantial control" means:

25 (1) an interest of 33% or more held by:

26 (A) a party referred to in paragraph (4) of the

1           definition of "prohibited foreign party";  
2           (B) a party referred to in paragraph (1) of the  
3           definition of "prohibited foreign party";  
4           (C) a party referred to in paragraph (3) of the  
5           definition of "prohibited foreign party"; or  
6           (D) a single government referred to in paragraph  
7           (2) of the definition of "prohibited foreign party";  
8           (2) an interest of 33% or more held whenever the  
9           parties, individuals, or governments referred to in  
10           subparagraph (A) of paragraph (1) of this definition are  
11           acting in concert with respect to the interest even though  
12           no single individual, party, or government holds an  
13           interest of 33% or more; or  
14           (3) an interest of 50% or more, in the aggregate, held  
15           by parties, individuals, or governments referred to in  
16           subparagraph (A) of paragraph (1) of this definition even  
17           though the individuals, parties, or foreign governments  
18           may not be acting in concert.

19           (765 ILCS 60/7) (from Ch. 6, par. 7)  
20           Sec. 7. Except as provided in Sections 9, 10, and 11, all  
21           ~~All~~ noncitizens may acquire, hold, and dispose of real and  
22           personal property in the same manner and to the same extent as  
23           natural born citizens of the United States, and the personal  
24           estate of a noncitizen dying intestate shall be distributed in  
25           the same manner as the estates of natural born citizens, and

1 all persons interested in such estate shall be entitled to  
2 proper distributive shares thereof under the laws of this  
3 state, whether they are noncitizens or not.

4 This amendatory Act of 1992 does not apply to the  
5 Agricultural Foreign Investment Disclosure Act.

6 (Source: P.A. 102-1030, eff. 5-27-22.)

7 (765 ILCS 60/9 new)

8 Sec. 9. Land ownership by prohibited  
9 foreign-party-controlled business prohibited.

10 (a) A prohibited foreign-party-controlled business shall  
11 not acquire by grant, purchase, devise, descent, or otherwise  
12 any interest in public or private land in this State. A party  
13 may not hold public or private land as an agent, trustee, or  
14 other fiduciary for a prohibited foreign-party-controlled  
15 business in violation of this Section.

16 (b) A prohibited foreign-party-controlled business entity  
17 in violation of this Section shall have 2 years to divest of  
18 the public or private land. If a prohibited  
19 foreign-party-controlled business entity does not divest the  
20 public or private land, the Attorney General shall commence an  
21 action in the circuit court within the jurisdiction of the  
22 public or private land. If the public or private land is held  
23 in violation of this Section, the circuit court shall order  
24 that the public or private land be sold through judicial  
25 foreclosure. Proceeds of the sale shall be disbursed to

1 lienholders, in the order of priority, except for liens that,  
2 under the terms of the sale, are to remain on the public or  
3 private land. The Attorney General shall promptly record a  
4 copy of the following in the local land records:

5 (1) upon commencement, notice of the pendency of an  
6 action brought under this subsection; and

7 (2) the order for the sale of the public or private  
8 land under this subsection.

9 (c) A prohibited foreign-party-controlled business entity  
10 shall, upon conviction for a violation of this Section, be  
11 guilty of a Class 4 felony punishable by not more than 2 years  
12 imprisonment in the custody of the Department of Corrections  
13 or a \$15,000 fine, or both.

14 (d) It is an affirmative defense to prosecution under this  
15 Section that a prohibited foreign-party-controlled business  
16 entity is a resident alien of the State.

17 (e) Title to public or private land is not invalid or  
18 subject to divestiture due to a violation of this Section by:

19 (1) any former owner; or

20 (2) other person holding or owning a former interest  
21 in the public or private land.

22 (f) No person not subject to this Section shall be  
23 required to determine or inquire into whether another person  
24 is or may be subject to this Section.



1       Sec. 10. Foreign ownership of agricultural land.

2       (a) A prohibited foreign party shall not acquire by grant,  
3 purchase, devise, descent, or otherwise any interest in  
4 agricultural land in this State regardless of whether the  
5 prohibited foreign party intends to use the agricultural land  
6 for nonfarming purposes. A party may not hold agricultural  
7 land as an agent, trustee, or other fiduciary for a prohibited  
8 foreign party in violation of this Section.

9       (b) A prohibited foreign party that acquires agricultural  
10 land in violation of this Section remains in violation as long  
11 as the prohibited foreign party holds an interest in the  
12 agricultural land.

13       (765 ILCS 60/11 new)

14       Sec. 11. Interest in agricultural land owned by prohibited  
15 foreign parties; exceptions; penalties.

16       (a) A prohibited foreign party who is a resident alien of  
17 the United States shall have the right to acquire and hold  
18 agricultural land in the State upon the same terms as a citizen  
19 of the United States during the continuance of his or her  
20 residence in the State.

21       (b) If a prohibited foreign party is no longer a resident  
22 alien under subsection (a), he or she shall have 2 years to  
23 divest of the agricultural land. If the prohibited foreign  
24 party does not divest of the agricultural land as required by  
25 this subsection, the Attorney General shall commence an action

1 in circuit court within the jurisdiction of the agricultural  
2 land. If the agricultural land is held in violation of this  
3 Section, the circuit court shall order that the agricultural  
4 land be sold through judicial foreclosure.

5 (c) When the Office of Agricultural Intelligence  
6 determines a prohibited foreign party has acquired  
7 agricultural land in this State in violation of this Section,  
8 the Office of Agricultural Intelligence shall report the  
9 violation to the Attorney General. Upon receiving notice under  
10 this subsection or upon receipt of information that leads the  
11 Attorney General to believe that a violation of this Section  
12 may exist, the Attorney General may issue subpoenas requiring  
13 the:

14 (1) appearance of witnesses;

15 (2) production of relevant records; and

16 (3) giving of relevant testimony.

17 If, as a result of the investigation under this  
18 subsection, the Attorney General concludes that a violation of  
19 this Section has occurred, the Attorney General shall commence  
20 an action in circuit court within the jurisdiction of the  
21 agricultural land. If the agricultural land is held in  
22 violation of this Section, the circuit court shall order that  
23 the agricultural land be sold through judicial foreclosure.

24 (d) The proceeds of a sale of agricultural land by  
25 judicial foreclosure authorized under this Section shall be  
26 disbursed to lienholders, in the order of priority, except for

1 liens which under the terms of the sale are to remain on the  
2 agricultural land. The Attorney General shall promptly record  
3 a copy of the following in the local land records:

4 (1) upon commencement, notice of the pendency of an  
5 action under this Section; and

6 (2) the order for the sale of agricultural land under  
7 this Section.

8 (e) A prohibited foreign party owning agricultural land  
9 subsequent to the effective date of this amendatory Act of the  
10 103rd General Assembly and not listed under an exception in  
11 subsection (a) or (b) shall, upon conviction, be guilty of a  
12 Class 4 felony punishable by not more than 2 years  
13 imprisonment in the custody of the Department of Corrections  
14 or a \$15,000 fine, or both.

15 (f) It is an affirmative defense to prosecution under this  
16 Section that a prohibited foreign party is a resident alien of  
17 the State.

18 (g) Title to agricultural land is not invalid or subject  
19 to divestiture due to a violation of this Section by:

20 (1) any former owner; or

21 (2) other person holding or owning a former interest  
22 in the agricultural land.

23 (h) No person not subject to this Section shall be  
24 required to determine or inquire into whether another person  
25 is or may be subject to this Section.

1 (765 ILCS 60/12 new)

2 Sec. 12. Office of Agricultural Intelligence.

3 (a) There is created within the Department of Agriculture  
4 the Office of Agricultural Intelligence.

5 (b) The Office of Agricultural Intelligence is authorized  
6 and directed to:

7 (1) collect and analyze information concerning the  
8 unlawful sale or possession of agricultural land by  
9 prohibited foreign parties; and

10 (2) administer and enforce the provisions of this Act,  
11 including, but not limited to, the reporting of a  
12 violation of this Act to the Attorney General under  
13 subsection (c) of Section 11.

14 (c) The Director of Agriculture may designate employees of  
15 the Department of Agriculture who have the power of a peace  
16 officer or institutional law enforcement officer in the  
17 enforcement of criminal laws of this State to perform the  
18 duties of the Office of Agricultural Intelligence under  
19 subsection (b).

20 (d) The Office of Agricultural Intelligence shall operate  
21 under the direction of the Director of Agriculture.

1 INDEX

2 Statutes amended in order of appearance

3 765 ILCS 60/1 new

4 765 ILCS 60/7 from Ch. 6, par. 7

5 765 ILCS 60/9 new

6 765 ILCS 60/10 new

7 765 ILCS 60/11 new

8 765 ILCS 60/12 new