

*file 5284 3/2 (p 441)*

Agriculture  
Miller of Marshall, Chairperson  
Hutchins  
Calhoun

**FILED FEB 14 1978**

SENATE FILE 2111

By BRILES

Passed Senate, Date 4-20-78 (p 441) Passed House, Date 5-2-78 (p 2121)

Vote: Ayes 22 Nays 3 Vote: Ayes 90 Nays 4

Approved \_\_\_\_\_

*motion to reconsider of 950 spl 425 (p 441) Motion to reconsider of 2153 (p 2121)*

### A BILL FOR

1 An Act limiting the ownership or acquisition of agricultural  
2 land by nonresident aliens.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2111

S-5284

1 Amend Senate File 2111 as follows:

2 1. Page 1, line 12, by inserting after the period  
3 the words "Every conveyance of agricultural land,  
4 if the grantee is a nonresident foreign alien, shall  
5 be recorded by the grantee with the county recorder  
6 of the county in which the land is situated not later  
7 than one hundred eighty days from the date of the  
8 conveyance."

9 2. Page 1, line 19, by inserting after the word  
10 "nonresident" the word "foreign".

23 S-5284 FILED *withdrawn Haske*  
24 MARCH 2, 1978

BY BASS VAN GILST, Chairperson  
COMMITTEE ON AGRICULTURE

25

1 Section 1. Section five hundred sixty-seven point one  
2 (567.1), unnumbered paragraph three (3), Code 1977, is amended  
3 to read as follows:

4 Nothing in this section contained shall prevent aliens,  
5 or corporations organized under the laws of any foreign  
6 country, or corporations organized in this country, one-half  
7 or more of the stock of which is owned or controlled by  
8 nonresident aliens, from having title to or acquiring property  
9 of any kind within the corporate limits of any city in the  
10 state, and lands not to exceed six hundred forty acres outside  
11 the corporate limits of any city in the state, or from  
12 alienating, mortgaging or devising the same. However, when  
13 the current Iowa agricultural statistics bulletin shows that  
14 more than one-tenth of one percent of the total agricultural  
15 land in this state as indicated by the report required by  
16 section five hundred sixty-seven point nine (567.9) of the  
17 Code is owned or leased by nonresident aliens, a moratorium  
18 shall be placed on further purchases or leases of agricultural  
19 land by nonresident aliens.

20 Sec. 2. This Act is effective January 1, 1979.

21 EXPLANATION

22 This bill provides that whenever agricultural land owned  
23 or leased by nonresident aliens exceeds one-tenth of one  
24 percent of the total agricultural land in Iowa, a moratorium  
25 shall be placed on any further purchase or lease of  
26 agricultural land in Iowa by nonresident foreign aliens.

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1 Amend Senate File 2111 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:

4 "Section 1. Chapter five hundred sixty-seven  
5 (567), Code 1977, is repealed and sections two (2)  
6 through nine (9) of this Act are substituted in lieu  
7 thereof:

8 Sec. 2. NEW SECTION. DEFINITIONS.

9 1. "Agricultural land" means land suitable for  
10 use in farming.

11 2. "Nonresident alien" means an individual who  
12 is not a citizen of the United States and who has  
13 not been classified as a resident alien by the United  
14 States immigration and naturalization service.

15 3. "Farming" means the cultivation of land for  
16 the production of agricultural crops, the raising  
17 of poultry, the production of eggs, the production  
18 of milk, the production of fruit or other horticultural  
19 crops, grazing or the production of livestock. Farming  
20 shall not include the production of timber, forest  
21 products, nursery products, or sod and farming shall  
22 not include a contract where a processor or distributor  
23 of farm products or supplies provides spraying,  
24 harvesting or other farm services.

25 4. "Foreign business" means a corporation  
26 incorporated under the laws of any foreign country,  
27 or a business entity whether or not incorporated in  
28 which a majority interest is owned directly or  
29 indirectly by nonresident aliens. Legal entities,  
30 including but not limited to trusts, holding companies,  
31 multiple corporations and other business arrangements,  
32 shall be disregarded when determining ownership or  
33 control of a foreign business.

34 5. "Foreign government" means a government other  
35 than the government of the United States, its states  
36 or its territories and possessions.

37 Sec. 3. NEW SECTION. ALIEN RIGHTS. A nonresident  
38 alien, foreign business or foreign government may  
39 acquire, by grant, purchase, devise or descent, real  
40 property, except agricultural land or any interest  
41 therein in this state, and may own, hold, devise or  
42 alienate such real property, and shall incur the same  
43 duties and liabilities in relation thereto as citizens  
44 and residents of the United States.

45 Sec. 4. NEW SECTION. RESTRICTION ON AGRICULTURAL  
46 LAND HOLDINGS.

47 1. A nonresident alien, foreign business or foreign  
48 government shall not purchase or otherwise acquire  
49 agricultural land in this state. A nonresident alien,  
50 foreign business or foreign government which owns

1 or holds agricultural land in this state on the  
2 effective date of this Act may continue to own or  
3 hold such land, but shall not purchase or otherwise  
4 acquire additional agricultural land in this state.

5 2. A person who acquires agricultural land in  
6 violation of this Act remains in violation of this  
7 Act for as long as the person holds an interest in  
8 the land.

9 3. The restrictions set forth in this section  
10 shall not apply to agricultural land or any interest  
11 therein acquired by a nonresident alien, foreign  
12 business or foreign government by devise or descent  
13 or for immediate or potential use in nonfarming  
14 purposes. However, pending the development of  
15 agricultural land for nonfarm purposes, such land  
16 shall not be used for farming except under lease to  
17 an individual, trust, corporation, partnership or  
18 other business entity not subject to the restriction  
19 on the increase in agricultural land holdings imposed  
20 by section one hundred seventy-two C point four  
21 (172C.4) of the Code, as amended by Acts of the Sixty-  
22 seventh General Assembly, 1977 Session, chapter eighty-  
23 two (82), section three (3).

24 Sec. 5. NEW SECTION. LAND ACQUIRED BY DEVISE  
25 OR DESCENT. A nonresident alien, foreign business  
26 or foreign government which acquires agricultural  
27 land by devise or descent shall have two years from  
28 the date of acquiring title to divest of all right,  
29 title and interest in such lands, or to convert such  
30 lands to nonfarming uses.

31 Sec. 6. NEW SECTION. REGISTRATION. A nonresident  
32 alien, foreign business or foreign government which  
33 owns any interest in agricultural lands within this  
34 state on or after the effective date of this Act shall  
35 register the agricultural land with the secretary  
36 of state. Such registration shall be made within  
37 sixty days after the effective date of this Act or  
38 after acquiring such real property, whichever time  
39 is the later, in the form and manner prescribed by  
40 the secretary and shall contain the name of the owner  
41 and the location and number of acres of the  
42 agricultural land by township and county. If the  
43 owner of the land or interest therein is a corporation,  
44 the registration shall also include the name of any  
45 principal for which that land, or interest therein,  
46 was purchased.

47 Sec. 7. NEW SECTION. ENFORCEMENT.

48 1. If the secretary finds that a nonresident  
49 alien, foreign business, foreign government or an  
50 agent, trustee, or other fiduciary thereof has acquired

1 or holds title to or interest in agricultural land  
2 in this state in violation of this Act or has failed  
3 to timely register as required under section six (6)  
4 of this Act, the secretary shall report the violation  
5 to the attorney general.

6 2. The attorney general shall initiate an action  
7 in the district court of any county in which the land  
8 owned by the nonresident alien, foreign business,  
9 foreign government, agent, trustee or other fiduciary,  
10 alleged to have violated this Act, is located.

11 3. The attorney general shall file a notice of  
12 the pendency of the action with the recorder of deeds  
13 of each county in which any such lands are located.  
14 If the court finds that the lands in question have  
15 been acquired or are held in violation of this Act  
16 or the required registration has not been timely  
17 filed, it shall enter an order so declaring and shall  
18 file a copy of the order with the recorder of deeds  
19 of each county in which any portion of the lands are  
20 located.

21 Sec. 8. NEW SECTION. ESCHEAT. If the court finds  
22 that the lands in question have been acquired in  
23 violation of this Act, the court shall declare the  
24 land escheated to the state. When escheat is decreed  
25 by the court, the clerk of court shall notify the  
26 governor that the title to the real estate is vested  
27 in the state by decree of the court. Any real estate,  
28 the title to which shall be acquired by the state  
29 under the provisions of this Act, shall be sold in  
30 the manner provided by law for the foreclosure of  
31 a mortgage on real estate for default of payment,  
32 and the proceeds of such sales shall become a part  
33 of the county general fund.

34 Sec. 9. NEW SECTION. PENALTY--FAILURE TO TIMELY  
35 FILE. A nonresident alien, foreign business or foreign  
36 government, or an agent, trustee or other fiduciary  
37 therefore, which fails to timely file the required  
38 registration under this Act shall be punished by a  
39 fine of not more than two thousand dollars.

40 Sec. 10. Sections four hundred ninety-one point  
41 sixty-seven (491.67) and five hundred eighty-nine  
42 point seven (589.7), Code 1977, are repealed.

43 Sec. 11. This Act is effective January 1, 1979."

H-6385 FILED BY HINKHOUSE of Cedar  
APRIL 29, 1978 SCHEELHAASE of Woodbury  
*Adopted amendments* HUSAK of Tama  
*by 6401-2400* CRABB of Crawford  
*5/2 (p. 210)* DAGGETT of Adams  
DUNTON of Keokuk  
GILSON of Guthrie  
BINNEBOESE of Plymouth  
GETTINGS of Wapello  
PONCY of Wapello  
DANKER of Pottawattamie  
HULLINGER of Decatur  
PELLETT of Cass

SENATE FILE 2111

H-6401

- 1 Amend amendment H-6385 to Senate File 2111 as
- 2 follows:
- 3 1. Page 1, line 20, by striking the word "not".
- 4 2. Page 1, line 21, by striking the words "and
- 5 farming" and inserting in lieu thereof the following:
- 6 ". Farming".

H-6401 FILED *Adopted 5/12* BY GETTINGS of Wapello  
APRIL 28, 1978 *(p. 2111)*

SENATE FILE 2111

H-6402

- 1 Amend the amendment, H-6385, to Senate File 2111
- 2 as follows:
- 3 1. Page 2, lines 29 and 30, by striking the words
- 4 "or to convert such lands to nonfarming uses".
- 5 2. Page 3, line 32, by inserting after the word
- 6 "sales" the words "shall be used to pay all court
- 7 costs with the remaining funds to be paid to the
- 8 person divested of the property but only in an amount
- 9 not exceeding the actual cost paid by such person
- 10 for that property. Any proceeds remaining after the
- 11 payment of court costs and the payment to the person
- 12 divested of the property".

H-6402 FILED *Adopted 5/12* BY WYCKOFF of Benton  
APRIL 29, 1978 *(p. 2111)* DANKER of Pottawattamie  
DAGGETT of Adams  
PELLETT of Cass  
SCHEELHAASE of Woodbury

1 Amend amendment H-6385 to Senate File 2111 as  
2 passed by the Senate as follows:

3 1. Page 3, by inserting after line 39 the  
4 following:

5 "Sec. 10. NEW SECTION. PURPOSE. It is the public  
6 policy of this state that all beneficial interest  
7 in land trusts be a matter of public record so that  
8 a person may not conceal a conflict of interest or  
9 other interest detrimental to the public welfare,  
10 or avoid the duties or liabilities imposed by law  
11 upon the holder of such an interest within a  
12 conveyancing device which does not require a public  
13 record disclosure of beneficial interests in those  
14 trusts.

15 Sec. 11. NEW SECTION. DEFINITIONS. As used in  
16 sections ten (10) through fifteen (15) of this Act  
17 unless the context otherwise requires:

18 1. "Beneficiary" means each person having a  
19 beneficial interest, regardless of how small or minimal  
20 the interest may be, in a land trust. If a partnership  
21 is a designated beneficiary of the trust, each partner  
22 is a beneficiary. If an association is a designated  
23 beneficiary of the trust, each individual having a  
24 controlling interest of ten percent or more, however  
25 control is held, is a beneficiary. If a corporation  
26 is a beneficiary each individual having an inter-  
27 est of ten percent or more in the corporation is a  
28 beneficiary. If the designated beneficiary is a  
29 corporation the controlling interest of which is held  
30 by other corporations, associations or partnerships,  
31 any individual who holds an interest of ten percent  
32 or more in such a partnership, association or corpora-  
33 tion, whether directly or by means of successive  
34 corporate entities or other associations or  
35 partnerships, is a beneficiary.

36 2. "Land trust" means any express agreement or  
37 arrangement whereby a use, confidence or trust is  
38 declared of any land, or of any charge upon land,  
39 for the use or benefit of any person, under which  
40 the legal title to real property is held by a trustee,  
41 subject only to the execution of the trust.

42 3. "Recorded" means that a land trust has been  
43 filed of record in the county wherein the real property  
44 described in the land trust is located. A land trust  
45 is not filed of record unless all of the information  
46 relating to beneficiaries which is required by sections  
47 ten (10) through fifteen (15) of this Act has been  
48 recorded.

49 Sec. 12. NEW SECTION. SECRET BENEFICIAL INTERESTS  
50 IN LAND TRUSTS ABOLISHED.

H-6499 1 1. Any right to the secrecy of ownership of any  
 Page 2 2 beneficial interest in any land trust is abolished  
 3 as of January 1, 1979, including such interest in  
 4 land trusts created prior to January 1, 1979.  
 5 2. In every land trust created on or after January  
 6 1, 1979, each beneficiary must be identified by name  
 7 and address and his or her interest defined. Such  
 8 information shall appear in a prominent place on the  
 9 face of the deed in trust.  
 10 3. Every land trust in existence on January 1,  
 11 1979 is modified to require the public disclosure  
 12 of beneficial interests therein so as to conform them  
 13 to the recording requirements for land trust  
 14 established by sections ten (10) through fifteen (15)  
 15 of this Act. The responsibility for the recording  
 16 of such conformed land trusts shall be upon the trustee  
 17 and the beneficiaries jointly and severally as to  
 18 the execution of the documents necessary to accomplish  
 19 such conformation and upon the trustee for the actual  
 20 recording of such documents, which shall be done as  
 21 soon as reasonably practicable, but not later than  
 22 March 31, 1979.  
 23 Where the trustee is required to make disclosure  
 24 of beneficial ownership interests under this  
 25 subsection, he or she shall also file affidavits of  
 26 the names of such beneficial owners and their interests  
 27 with the clerk of the district court, and county  
 28 attorney.  
 29 Sec. 13. NEW SECTION. FAILURE TO COMPLY WITH  
 30 ACT. Any violation of sections ten (10) through  
 31 fifteen (15) of this Act shall render the land trust  
 32 void and all interests in the res of the trust shall  
 33 be in the record titleholder as they existed prior  
 34 to the execution of the land trust agreement.  
 35 Sec. 14. NEW SECTION. PENALTY. Any person who  
 36 knowingly fails or refuses to make disclosure of  
 37 beneficial interests in real property as required  
 38 of him or her by sections ten (10) through fifteen  
 39 (15) of this Act is guilty of a misdemeanor and shall  
 40 be fined not less than one thousand dollars nor more  
 41 than five thousand dollars.  
 42 Sec. 15. NEW SECTION. ENFORCEMENT. Actions or  
 43 claims in actions to enforce the provisions of sections  
 44 ten (10) through fifteen (15) of this Act shall be  
 45 in equity, and may be brought by any person aggrieved  
 46 by a land trust in violation of sections ten (10)  
 47 through fifteen (15) of this Act, including but not  
 48 limited to, the attorney general, an agency of this  
 49 state, a political subdivision of this state, and  
 50 a citizen of this or another state."

Page 3

1 2. Page 3, line 40, by striking the numerals "10."  
 2 and inserting in lieu thereof the numerals "16."  
 3 3. Page 3, line 43, by striking the numerals "11."  
 4 and inserting in lieu thereof the numerals "17."  
 5 4. Page 3, by inserting after line 43 the  
 6 following:  
 7 "2. Amend the title by striking lines 1 and 2  
 8 and inserting in lieu thereof the words "An Act  
 9 relating to the ownership of land and providing  
 10 penalties."

HOUSE AMENDMENT TO SENATE FILE 2111

S-5834

1 Amend Senate File 2111 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:

4 "Section 1. Chapter five hundred sixty-seven  
5 (567), Code 1977, is repealed and sections two (2)  
6 through nine (9) of this Act are substituted in lieu  
7 thereof:

8 Sec. 2. NEW SECTION. DEFINITIONS.

9 1. "Agricultural land" means land suitable for  
10 use in farming.

11 2. "Nonresident alien" means an individual who  
12 is not a citizen of the United States and who has  
13 not been classified as a resident alien by the United  
14 States immigration and naturalization service.

15 3. "Farming" means the cultivation of land for  
16 the production of agricultural crops, the raising  
17 of poultry, the production of eggs, the production  
18 of milk, the production of fruit or other horticultural  
19 crops, grazing or the production of livestock. Farming  
20 shall include the production of timber, forest  
21 products, nursery products, or sod. Farming shall  
22 not include a contract where a processor or distributor  
23 of farm products or supplies provides spraying,  
24 harvesting or other farm services.

25 4. "Foreign business" means a corporation  
26 incorporated under the laws of any foreign country,  
27 or a business entity whether or not incorporated in  
28 which a majority interest is owned directly or  
29 indirectly by nonresident aliens. Legal entities,  
30 including but not limited to trusts, holding companies,  
31 multiple corporations and other business arrangements,  
32 shall be disregarded when determining ownership or  
33 control of a foreign business.

34 5. "Foreign government" means a government other  
35 than the government of the United States, its states  
36 or its territories and possessions.

37 Sec. 3. NEW SECTION. ALIEN RIGHTS. A nonresident  
38 alien, foreign business or foreign government may  
39 acquire, by grant, purchase, devise or descent, real  
40 property, except agricultural land or any interest  
41 therein in this state, and may own, hold, devise or  
42 alienate such real property, and shall incur the same  
43 duties and liabilities in relation thereto as citizens  
44 and residents of the United States.

45 Sec. 4. NEW SECTION. RESTRICTION ON AGRICULTURAL  
46 LAND HOLDINGS.

47 1. A nonresident alien, foreign business or foreign  
48 government shall not purchase or otherwise acquire  
49 agricultural land in this state. A nonresident alien,  
50 foreign business or foreign government which owns

S-5834  
Page 2

1 or holds agricultural land in this state on the  
2 effective date of this Act may continue to own or  
3 hold such land, but shall not purchase or otherwise  
4 acquire additional agricultural land in this state.

5 2. A person who acquires agricultural land in  
6 violation of this Act remains in violation of this  
7 Act for as long as the person holds an interest in  
8 the land.

9 3. The restrictions set forth in this section  
10 shall not apply to agricultural land or any interest  
11 therein acquired by a nonresident alien, foreign  
12 business or foreign government by devise or descent  
13 or for immediate or potential use in nonfarming  
14 purposes. However, pending the development of  
15 agricultural land for nonfarm purposes, such land  
16 shall not be used for farming except under lease to  
17 an individual, trust, corporation, partnership or  
18 other business entity not subject to the restriction  
19 on the increase in agricultural land holdings imposed  
20 by section one hundred seventy-two C point four  
21 (172C.4) of the Code, as amended by Acts of the Sixty-  
22 seventh General Assembly, 1977 Session, chapter eighty-  
23 two (82), section three (3).

24 Sec. 5. NEW SECTION. LAND ACQUIRED BY DEVISE  
25 OR DESCENT. A nonresident alien, foreign business  
26 or foreign government which acquires agricultural  
27 land by devise or descent shall have two years from  
28 the date of acquiring title to divest of all right,  
29 title and interest in such lands.

30 Sec. 6. NEW SECTION. REGISTRATION. A nonresident  
31 alien, foreign business or foreign government which  
32 owns any interest in agricultural lands within this  
33 state on or after the effective date of this Act shall  
34 register the agricultural land with the secretary  
35 of state. Such registration shall be made within  
36 sixty days after the effective date of this Act or  
37 after acquiring such real property, whichever time  
38 is the later, in the form and manner prescribed by  
39 the secretary and shall contain the name of the owner  
40 and the location and number of acres of the  
41 agricultural land by township and county. If the  
42 owner of the land or interest therein is a corporation,  
43 the registration shall also include the name of any  
44 principal for which that land, or interest therein,  
45 was purchased.

46 Sec. 7. NEW SECTION. ENFORCEMENT.

47 1. If the secretary finds that a nonresident  
48 alien, foreign business, foreign government or an  
49 agent, trustee, or other fiduciary thereof has acquired  
50 or holds title to or interest in agricultural land

S-5834  
Page 3

1 in this state in violation of this Act or has failed  
2 to timely register as required under section six (6)  
3 of this Act, the secretary shall report the violation  
4 to the attorney general.

5 2. The attorney general shall initiate an action  
6 in the district court of any county in which the land  
7 owned by the nonresident alien, foreign business,  
8 foreign government, agent, trustee or other fiduciary,  
9 alleged to have violated this Act, is located.

10 3. The attorney general shall file a notice of  
11 the pendency of the action with the recorder of deeds  
12 of each county in which any such lands are located.  
13 If the court finds that the lands in question have  
14 been acquired or are held in violation of this Act  
15 or the required registration has not been timely  
16 filed, it shall enter an order so declaring and shall  
17 file a copy of the order with the recorder of deeds  
18 of each county in which any portion of the lands are  
19 located.

20 Sec. 8. NEW SECTION. ESCHEAT. If the court finds  
21 that the lands in question have been acquired in  
22 violation of this Act, the court shall declare the  
23 land escheated to the state. When escheat is decreed  
24 by the court, the clerk of court shall notify the  
25 governor that the title to the real estate is vested  
26 in the state by decree of the court. Any real estate,  
27 the title to which shall be acquired by the state  
28 under the provisions of this Act, shall be sold in  
29 the manner provided by law for the foreclosure of  
30 a mortgage on real estate for default of payment,  
31 and the proceeds of such sales shall be used to pay  
32 all court costs with the remaining funds to be paid  
33 to the person divested of the property but only in  
34 an amount not exceeding the actual cost paid by such  
35 person for that property. Any proceeds remaining  
36 after the payment of court costs and the payment to  
37 the person divested of the property shall become  
38 a part of the county general fund.

39 Sec. 9. NEW SECTION. PENALTY--FAILURE TO TIMELY  
40 FILE. A nonresident alien, foreign business or foreign  
41 government, or an agent, trustee or other fiduciary  
42 therefore, which fails to timely file the required  
43 registration under this Act shall be punished by a  
44 fine of not more than two thousand dollars.

45 Sec. 10. Sections four hundred ninety-one point  
46 sixty-seven (491.67) and five hundred eighty-nine  
47 point seven (589.7), Code 1977, are repealed.

48 Sec. 11. This Act is effective January 1, 1979."

S-5834 FILED  
MAY 5, 1978

RECEIVED FROM THE HOUSE