

NONRESIDENT ALIENS LAND OWNERSHIP

Footnotes

Transferred from ch 567 in Code 2003 pursuant to Code editor directive; 2002 Acts, ch 1095, §10

9I.1 Definitions.

For the purpose of this chapter:

1. *"Agricultural land"* means land suitable for use in farming.
2. *"Farming"* means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming includes the production of timber, forest products, nursery products, or sod. Farming does not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.
3. *"Foreign business"* means a corporation incorporated under the laws of a foreign country, or a business entity whether or not incorporated, in which a majority interest is owned directly or indirectly by nonresident aliens. Legal entities, including but not limited to trusts, holding companies, multiple corporations and other business arrangements, do not affect the determination of ownership or control of a foreign business.
4. *"Foreign government"* means a government other than the government of the United States, its states, territories or possessions.
5. *"Nonresident alien"* means an individual who is not any of the following:
 - a. A citizen of the United States.
 - b. A person lawfully admitted into the United States for permanent residence by the United States immigration and naturalization service. An individual is lawfully admitted for permanent residence regardless of whether the individual's lawful permanent resident status is conditional.

[C79, § 567.10; C81, § 567.1]

2002 Acts, ch 1066, §1; 2002 Acts, ch 1095, §10

C2003, §9I.1

9I.2 Alien rights.

A nonresident alien, foreign business or foreign government may acquire, by grant, purchase, devise or descent, real property, except agricultural land or any interest in agricultural land in this state, and may own, hold, devise or alienate the real property, and shall incur the same duties and liabilities in relation thereto as a citizen and resident of the United States.

[C97, § 1641; S13, § 1641; C24, 27, 31, 35, 39, § **8403**; C46, 50, § 491.67; C54, 58, 62, 66, 71, 73, 75, 77, 79, § 491.67, 567.8; C81, § 567.2]

2002 Acts, ch 1095, §10

9I.3 Restriction on agricultural land holdings.

1. A nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, shall not purchase or otherwise acquire agricultural land in this state. A nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, which owns or holds agricultural land in this state on January 1, 1980, may continue to own or hold the land, but shall not purchase or otherwise acquire additional agricultural land in this state.

2. A person who acquires agricultural land in violation of this chapter or who fails to convert the land to the purpose other than farming within five years, as provided for in this chapter, remains in violation of this chapter for as long as the person holds an interest in the land.

3. The restriction set forth in subsection 1 of this section does not apply to the following:

a. Agricultural land acquired by devise or descent.

b. A bona fide encumbrance on agricultural land taken for purposes of security.

c. Agricultural land acquired by a process of law in the collection of debts, by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the land, whether created by mortgage or otherwise. However, agricultural land so acquired shall be sold or otherwise disposed of within two years after title is transferred. Pending the sale or disposition, the land shall not be used for any purpose other than farming, and the land shall not be used for farming except under lease to an individual, trust, corporation, partnership or other business entity not subject to the restriction on the increase in agricultural land holdings imposed by section 9H.4. Agricultural land which has been acquired pursuant to this paragraph shall not be acquired or utilized by the nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, under either paragraph "d" or paragraph "e".

d. Agricultural land acquired for research or experimental purposes. Agricultural land is used for research or experimental purposes if any of the following apply:

(1) Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation. Commercial sales are incidental to the research or experimental purposes of the corporation when such sales are less than twenty-five percent of the gross sales of the primary product of the research.

(2) The agricultural land is used for the primary purpose of testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock. Grain which is not sold as seed stock is an incidental sale and must be less than twenty-five percent of the gross sales of the primary product of the research and experimental activities.

(3) Until July 1, 2001, the agricultural land is used for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after July 1, 1989, to qualify under this paragraph, the following conditions must be satisfied:

(a) The nonresident alien, foreign business, or foreign government or an agent, trustee, or fiduciary of the alien, business, or government must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. A lessee shall not renew a lease entered into under this subparagraph (3). The lessee shall not enter into a lease under this paragraph, if another lease under this paragraph has been entered into by the lessee.

(b) A term or condition of sale, including resale, of seed stock or breeding stock must not relate to the direct or indirect control by the lessee of the breeding stock or breeding stock progeny subsequent to the sale.

(c) The number of acres of agricultural land held by the lessee must not exceed six hundred forty acres.

(d) The lessee must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease.

(4) Culls and test animals may be sold under subparagraph (3). For a three-year period beginning on the date that the lease takes effect, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three- year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less. As used in subparagraph (3), "*lessee*" means a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary acting on behalf of the nonresident alien, foreign business, or foreign government, or any other trade or business which is under the lessee's common control as provided in 26 U.S.C. § 414.

(5) Effective July 1, 2001, subparagraph (3) shall not be effective. However, a lessee may continue for the duration of the period of the lease to lease the agricultural land under subparagraph (3) if the lease was entered into prior to July 1, 2001.

(6) Effective July 1, 2001, a nonresident alien, foreign business, or foreign government or an agent, trustee, or fiduciary of the alien, business, or government shall not, except as provided in subparagraph (5), acquire or hold agricultural land used for the primary purpose of testing, developing, or producing animals.

e. An interest in agricultural land, not to exceed three hundred twenty acres, acquired for an immediate or pending use other than farming. However, a nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, who lawfully owns over three hundred twenty acres on January 1, 1980, may continue to own or hold the land, but shall not purchase or otherwise acquire additional agricultural land in this state except by devise or descent from a nonresident alien. Pending the development of the agricultural land for purpose other than farming, the land shall not be used for farming except under lease to an individual, trust, corporation, partnership or other business entity not subject to the restriction on the increase in agricultural land holdings imposed by section 9H.4.

4. A nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof shall not transfer title to or interest in agricultural land to a nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof except by devise or descent.

[C73, § 1908; C97, § 2889; C24, 27, 31, 35, 39, § 10214; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, § 567.1; C81, § 567.3]

86 Acts, ch 1214, § 9; 89 Acts, ch 311, §31, 33; 2002 Acts, ch 1095, §10

C2003, §9I.3

Subsection 3, paragraph d, subparagraph (5), stricken effective July 1, 2013; 89 Acts, ch 311, §33

9I.4 Development of land acquired for nonfarming purposes.

Development of the agricultural land which is not subject to the restrictions of section 9I.3, subsections 1 and 2, because the land or interest in the land was acquired for an immediate or pending use other than farming, shall convert the land to the purpose other than farming, within five years after the acquisition of the agricultural land or the acquisition of the interest in the agricultural land.

[C81, § 567.4]

2002 Acts, ch 1095, §10

C2003, §9I.4

9I.5 Land acquired by devise or descent.

A nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, which acquires agricultural land or an interest in agricultural land, by devise or descent after January 1, 1980, shall divest itself of all right, title and interest in the land within two years from the date of acquiring the land or interest. This section shall not require divestment of agricultural land or an interest in agricultural land, acquired by devise or descent from a nonresident alien, if such land or an interest in such land was acquired by any nonresident alien prior to July 1, 1979.

[C73, § 1909; C97, § 2889; C24, 27, 31, 35, 39, § **10214**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, § 567.1; C81, § 567.5]

2002 Acts, ch 1095, §10

C2003, §9I.5

9I.6 Change of status divestment.

A person or business which purchases or otherwise acquires agricultural land in this state except by devise or descent, after January 1, 1980, and whose status changes so that it becomes a foreign business or nonresident alien subject to this chapter, shall divest itself of all right, title and interest in the land within two years from the date that its status changed.

[C81, § 567.6]

2002 Acts, ch 1095, §10

C2003, §9I.6

9I.7 Registration.

A nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, which owns an interest in agricultural land within this state on or after January 1, 1980, shall register the agricultural land with the secretary of state. The registration shall be made within sixty days after January 1, 1980, or within sixty days after acquiring the land or the interest in land, whichever time is the later. The registration shall be in the form and manner prescribed by the secretary and shall contain the name of the owner and the location and number of acres of the agricultural land by township and county. If the owner of the agricultural land or owner of the interest in agricultural land is an agent, trustee or fiduciary of a nonresident alien, foreign business or foreign government, the registration shall also include the name of any principal for whom that land, or interest in that land was purchased as agent.

[C81, § 567.7]

2002 Acts, ch 1095, §10

C2003, §9I.7

Footnotes

Exception for persons required to file a report under chapter 10B, see §10B.4A

9I.8 Reports.

A nonresident alien, foreign business or foreign government, or an agent, trustee or fiduciary thereof, who acquires agricultural land not subject to the restrictions of section 9I.3 because the land was acquired for an immediate or pending use other than farming, shall file a report with the secretary of state before March 31 of each year. The report shall be in the form and manner prescribed by the secretary and shall contain the following:

1. The name of the owner of the agricultural land or owner of the interest in the agricultural land.
2. If the owner of the agricultural land or interest in agricultural land is an agent, trustee or fiduciary of a nonresident alien, foreign business or foreign government, the name of any principal for whom that land or interest in that land was acquired as agent.
3. The location and number of acres of the agricultural land by township and county.
4. The date the agricultural land or interest in agricultural land was acquired.
5. The immediate or pending use other than farming, for which the agricultural land or interest in agricultural land was acquired and the status of the land's development for the purpose other than farming.
6. The present use of the agricultural land.

[C77, 79, § 567.9; C81, § 567.8]

2002 Acts, ch 1095, §10

C2003, §9I.8

Footnotes

Suspension of filing requirement, §10B.4A

9I.9 Lessees conducting research or experiments.

Lessees of agricultural land under section 9I.3, subsection 3, paragraph "d", subparagraph (3), for research or experimental purposes, shall file a report with the secretary of state on or before March 31 of each year on forms adopted pursuant to chapter 17A and supplied by the secretary of state. The report shall contain the following information for the last year:

1. The name and principal place of business of the lessee.
2. The location of the agricultural land used for research or experimental purposes.
3. The date that the lease became effective.
4. The name and address of each person purchasing breeding stock produced on the agricultural land.

5. The number or volume of breeding stock purchased by each person purchasing breeding stock produced on the agricultural land.

89 Acts, ch 311, §32

CS89, §567.8A

2002 Acts, ch 1095, §10

C2003, §9I.9

9I.10 Enforcement.

1. If the secretary of state finds that a nonresident alien, foreign business, foreign government, or an agent, trustee, or other fiduciary thereof, has acquired or holds title to or interest in agricultural land in this state in violation of this chapter or has failed to timely register as required under section 9I.7 or has failed to timely report as required under section 9I.8, the secretary shall report the violation to the attorney general.

2. Upon receipt of the report from the secretary of state, the attorney general shall initiate an action in the district court of any county in which the land is located.

3. The attorney general shall file a notice of the pendency of the action with the recorder of deeds of each county in which any of the land is located. If the court finds that the land in question has been acquired or held in violation of this chapter or the required registration has not been timely filed, it shall enter an order so declaring and shall file a copy of the order with the recorder of deeds of each county in which any portion of the land is located.

[C97, § 2891; C24, 27, 31, 35, 39, § **10218**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, § 567.5; C81, § 567.9]

2002 Acts, ch 1095, §10

C2003, §9I.10

9I.11 Escheat.

If the court finds that the land in question has been acquired in violation of this chapter or that the land has not been converted to the purpose other than farming within five years as provided for in this chapter, the court shall declare the land escheated to the state. When escheat is decreed by the court, the clerk of court shall notify the governor that the title to the real estate is vested in the state by decree of the court. Any real estate, the title to which is acquired by the state under this chapter, shall be sold in the manner provided by law for the foreclosure of a mortgage on real estate for default of payment, the proceeds of the sale shall be used to pay court costs, and the remaining funds, if any, shall be paid to the person divested of the property but only in an amount not exceeding the actual cost paid by the person for that property. Proceeds remaining after the payment of court costs and the payment to the person divested of the property shall become a part of the funds of the county or counties in which the land is located, in proportion to the part of the land in each county.

[C97, § 2891; C24, 27, 31, 35, 39, § **10218**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, § 567.5; C81, § 567.10]

83 Acts, ch 123, § 192, 209; 2002 Acts, ch 1095, §10

C2003, §9I.11

9I.12 Penalty failure to timely file.

A nonresident alien, foreign business or foreign government, or an agent, trustee or other fiduciary thereof, who fails to timely file the registration as required by section 9I.7, or who fails to timely file a report required by section 9I.8 shall, for each offense, be punished by a fine of not more than two thousand dollars.

[C81, § 567.11]

2002 Acts, ch 1095, §10

C2003, §9I.12