

House Study Bill 663 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR BILL)

A BILL FOR

1 An Act relating to interests in agricultural land acquired
2 or held by foreign businesses, foreign governments, or
3 nonresident aliens, or by agents, trustees, or fiduciaries
4 thereof, by providing for registration and reporting
5 requirements, providing for enforcement, and providing
6 penalties.

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

1 Section 1. Section 9I.1, Code 2024, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 4A. "*Interest*" means any estate, remainder,
4 or reversion, or portion of the estate, remainder, or
5 reversion, or an option pursuant to which one party has a right
6 to cause legal or equitable title to agricultural land to be
7 transferred.

8 NEW SUBSECTION. 4B. "*Intermediary*" means any person,
9 including a bank, broker, or dealer, that makes business or
10 financial arrangements between companies or organizations that
11 do not deal with each other directly.

12 NEW SUBSECTION. 6. "*Parent*" means any corporation which
13 directly, or indirectly through one or more intermediaries,
14 controls more than fifty percent of the voting stock of another
15 corporation.

16 Sec. 2. Section 9I.7, Code 2024, is amended to read as
17 follows:

18 **9I.7 Registration.**

19 A nonresident alien, foreign business, or foreign
20 government, or an agent, trustee, or fiduciary thereof, which
21 owns an interest in agricultural land within this state on or
22 after January 1, 1980, shall register the agricultural land
23 with the secretary of state. The registration shall be made
24 within sixty days after January 1, 1980, or within sixty days
25 after acquiring the land or the interest in land, whichever
26 time is the later. The registration shall be in the form
27 and manner prescribed by the secretary and shall contain the
28 name of the owner and the location and number of acres of
29 the agricultural land by township and county of state. If
30 the owner of the agricultural land or owner of the interest
31 in agricultural land is an agent, trustee or fiduciary of a
32 nonresident alien, foreign business or foreign government,
33 the registration shall also include the name of any principal
34 for whom that land, or interest in that land was purchased as
35 agent. Information described in this section is a confidential

1 record and subject to use in the same manner as provided in
2 section 10B.5. As part of the registration, the nonresident
3 alien, foreign business, or foreign government, or an agent,
4 trustee, or fiduciary thereof, shall file all of the following
5 information:

6 1. The legal name, street address, mailing address,
7 if different, and the birthplace and nationality of the
8 nonresident alien, foreign business, or foreign government that
9 owns the interest in the agricultural land.

10 2. The legal name, street address, mailing address,
11 if different, and the birthplace and nationality of the
12 agent, trustee, or fiduciary of the nonresident alien,
13 foreign business, or foreign government in subsection 1, if
14 specifically authorized to do any of the following:

15 a. Purchase the agricultural land.

16 b. Supervise the daily operations on the agricultural land.

17 3. A statement of the purpose for conducting business in
18 this state.

19 4. A description of the purpose of the interest in the
20 agricultural land in this state as it relates to the stated
21 business purpose in subsection 3.

22 5. The legal name, street address, and mailing address
23 of any parent of the registering party, including the legal
24 name, street address, and mailing address of any subsidiary or
25 intermediary of the parent.

26 6. The legal name, street address, and mailing address of
27 any subsidiary of the registering party.

28 7. A listing of all other interests in agricultural land
29 that are held directly or indirectly by the registering party,
30 parent of the registering party, or subsidiary or intermediary
31 of the parent in the United States that exceeds two hundred
32 fifty acres.

33 Sec. 3. Section 9I.10, subsection 1, Code 2024, is amended
34 to read as follows:

35 1. If the secretary of state finds that a nonresident alien,

1 foreign business, foreign government, or an agent, trustee,
2 or other fiduciary thereof, has acquired or holds title to or
3 interest in agricultural land in this state in violation of
4 this chapter or has failed to timely register as required under
5 section 9I.7 or has failed to timely report as required under
6 section ~~9I.8~~ 10B.4, the secretary shall report the violation
7 to the attorney general.

8 Sec. 4. Section 9I.10, Code 2024, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 4. The attorney general may conduct an
11 inquiry or investigation regarding a violation of this chapter
12 or section 10B.4. As part of that inquiry or investigation,
13 and in accordance with the Iowa rules of civil procedure, the
14 attorney general may issue a subpoena for the production of
15 records, including but not limited to books, accounts, papers,
16 correspondence, memoranda, purchase agreements, files, or other
17 documents in a print or electronic format. If a person refuses
18 compliance, the attorney general may seek enforcement by the
19 district court.

20 Sec. 5. Section 9I.12, Code 2024, is amended to read as
21 follows:

22 **9I.12 Penalty — failure to timely file.**

23 A civil penalty ~~of not more than two thousand dollars to~~
24 exceed twenty-five percent of the county's assessed value of
25 the subject agricultural land for the previous year shall be
26 imposed, for each offense, upon a nonresident alien, foreign
27 business, or foreign government, or an agent, trustee, or other
28 fiduciary thereof, who fails to timely file the registration as
29 required by [section 9I.7](#), ~~or who fails to timely file a report~~
30 ~~required by [section 9I.8](#).~~

31 Sec. 6. Section 10B.4, subsection 2, unnumbered paragraph
32 1, Code 2024, is amended to read as follows:

33 A report required pursuant to [this section](#) shall contain
34 information for the reporting period regarding the reporting
35 entity as required by the secretary of state which shall at

1 least include any updates to the information provided in the
2 registration to the secretary of state in section 9I.7 and all
3 of the following:

4 Sec. 7. Section 10B.4, Code 2024, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 4. The attorney general may conduct an
7 inquiry or investigation regarding a violation of this section
8 as provided in section 9I.10.

9 Sec. 8. Section 10B.4A, Code 2024, is amended to read as
10 follows:

11 **10B.4A Suspension of other filing requirements.**

12 The secretary of state shall not prepare or distribute forms
13 for reports or file reports otherwise required pursuant to
14 section ~~9I.8~~ or 501.103. A person required to file a report
15 pursuant to [this chapter](#) is not required to file a report under
16 ~~those sections~~ section 501.103. ~~A person required to file a~~
17 ~~report pursuant to [this chapter](#) is not required to register~~
18 ~~with the secretary of state as otherwise required in section~~
19 ~~9I.7.~~

20 Sec. 9. NEW SECTION. **10B.5A Annual summary to governor and**
21 **general assembly.**

22 The secretary of state shall prepare an annual summary of
23 foreign landholding. The summary must be a report summarizing
24 the compiled information included in the current registrations
25 filed pursuant to section 9I.7 and the last reports filed
26 pursuant to section 10B.4. The information is a confidential
27 record as provided in section 22.7. The attorney general may
28 have access to the annual summary and may use information
29 in the annual summary in any action to enforce state law,
30 including but not limited to chapters 9H and 9I, and this
31 chapter. The annual summary shall be made available to the
32 governor, members of the general assembly, and appropriate
33 committees of the general assembly in order to determine the
34 extent that agricultural land is held in this state by foreign
35 entities and the effect of such land ownership upon the economy

1 of this state. Upon request, the secretary of state shall
2 assist any committee of the general assembly studying these
3 issues.

4 Sec. 10. Section 10B.6, subsection 1, Code 2024, is amended
5 to read as follows:

6 1. a. The Except as provided in paragraph "b", the failure
7 to timely file a report or the filing of false information in a
8 report as provided in section 10B.4 is punishable by a civil
9 penalty not to exceed one thousand dollars.

10 b. The failure to file a report or the filing of false
11 information in a report by a nonresident alien, foreign
12 business, or foreign government, or an agent, trustee, or other
13 fiduciary thereof as provided in section 10B.4 is punishable by
14 a civil penalty of up to ten thousand dollars for each offense.

15 Sec. 11. REPEAL. Section 9I.8, Code 2024, is repealed.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 BACKGROUND — GENERAL (CODE CHAPTERS 9H, 9I, AND 10B).
20 Currently, three related Code chapters impose requirements upon
21 the acquisition or holding of agricultural land suitable for
22 farming in this state.

23 BACKGROUND — FARMING BY A DOMESTIC OR FOREIGN BUSINESS
24 ENTITY (CODE CHAPTER 9H). Code chapter 9H, which is referred
25 to but not amended by this bill, restricts certain business
26 entities classified as either domestic (meaning formed in the
27 state) or foreign (meaning formed outside the state) from
28 acquiring or holding agricultural land, subject to a number
29 of exceptions such as a family farm corporation (Code section
30 9H.4). The Code chapter's reporting requirement was repealed
31 in 2003 (2003 Iowa Acts, chapter 115, sections 17 and 19).

32 BACKGROUND — FARMING BY A FOREIGN PERSON (CODE CHAPTER
33 9I). Code chapter 9I, amended by the bill, restricts a foreign
34 person from acquiring agricultural land suitable for use in
35 farming in this state (Code section 9I.3). The Code chapter

1 specifically describes a foreign person as a foreign business,
2 foreign government, or nonresident alien and any authorized
3 representative of the foreign business, foreign government, or
4 nonresident alien. Similarly, the Code chapter describes an
5 authorized representative as an agent, trustee, or fiduciary.
6 A foreign business is a corporation incorporated under the
7 laws of a foreign country or any other type of business entity
8 (e.g., limited liability company) if the majority interest
9 is owned directly or indirectly by one or more nonresident
10 aliens. A foreign person must file two documents with the
11 secretary of state, including a one-time registration (Code
12 section 9I.7) and an annual report (Code section 9I.8). The
13 annual report must be filed by a foreign person that acquires
14 agricultural land for development and is required to convert
15 it for a nonfarming purpose within five years (Code section
16 9I.4). Information in the registration or annual report is
17 not a confidential record under Iowa's open records law (Code
18 chapter 22). A foreign person who fails to file a timely
19 annual report is subject to a civil penalty of not more than
20 \$2,000 (Code section 9I.12). If the foreign person acquires
21 or fails to convert agricultural land to a purpose other than
22 farming within five years, the agricultural land escheats to
23 the state pursuant to an enforcement action by the attorney
24 general (Code section 9I.11).

25 BACKGROUND — SUPERSEDING FILING REQUIREMENTS (CODE CHAPTER
26 10B). Code chapter 10B requires that a business entity
27 described in Code chapter 9H, or a foreign person described
28 in Code chapter 9I, acquiring or holding agricultural land,
29 file a biennial report with the secretary of state (Code
30 section 10B.4). In addition, a foreign person's duty to
31 file a registration and annual report under Code chapter 9I
32 is permanently suspended (Code section 10B.4A). Information
33 published in the biennial report is a confidential record but
34 may be released to the attorney general and members of the
35 general assembly (Code section 10B.5).

1 BILL'S PROVISIONS — REGISTRATION REQUIREMENT (CODE
2 CHAPTERS 9I AND 10B). The bill eliminates the suspension
3 of the registration requirement (Code section 10B.4A). The
4 same confidentiality requirements that currently apply to
5 information in a biennial report (Code section 10B.5) apply
6 to information in the reinstated registration under Code
7 section 9I.7. The bill requires specific information to
8 be included in the registration. A foreign person must
9 provide its legal name, mailing address, and nationality. An
10 authorized representative of a foreign person must state the
11 representative's legal name, street and mailing address, and
12 nationality; and its authority to purchase the agricultural
13 land and supervise any daily operations on the agricultural
14 land. The foreign person must include a statement of the
15 purpose of conducting a business in this state; a description
16 of the purpose in the interest in the agricultural land; the
17 legal name and mailing address of a parent corporation, or an
18 intermediary or subsidiary of the parent corporation; and a
19 listing of all other interests in agricultural land totaling
20 more than 250 acres held in the United States by the foreign
21 person, a parent of the foreign corporation, or intermediary or
22 subsidiary of the parent.

23 BILL'S PROVISIONS — INQUIRY OR INVESTIGATION BY THE
24 ATTORNEY GENERAL (CODE CHAPTERS 9I AND 10B). The bill
25 authorizes the attorney general to conduct an inquiry or
26 investigation regarding a violation of Code chapter 9I (Code
27 section 9I.10) or the biennial reporting requirements in Code
28 chapter 10B (Code section 10B.4). This includes the power to
29 issue a subpoena for the production of records, and to seek
30 compliance of the subpoena in district court.

31 BILL'S PROVISIONS — PENALTIES (CODE CHAPTER 9I). The bill
32 changes the civil penalty imposed for failing to timely file
33 a registration to an amount not more than 25 percent of the
34 county's assessed value of the subject agricultural land for
35 the previous year, and retains language referring to "each

1 offense".

2 BILL'S PROVISIONS — REPORTING REQUIREMENTS (CODE CHAPTERS
3 9I AND 10B). The bill eliminates the suspended annual
4 reporting requirements in Code chapter 9I (Code section
5 10B.4A). Unlike the reinstated registration requirement, the
6 annual reporting requirement is repealed (Code section 9I.8).
7 The bill amends the biennial reporting requirements in Code
8 chapter 10B (Code section 10B.4). Specifically, the biennial
9 report must include any updates to the information stated
10 in the registration. The secretary of state must prepare
11 an annual summary of compiled information in the current
12 registrations and last filed reports (Code section 10B.5A).
13 The information is a confidential record. However, the bill
14 creates an exception allowing access to the record by the
15 attorney general for enforcement purposes, and the governor and
16 general assembly for public policy purposes.

17 BILL'S PROVISIONS — PENALTIES (CODE CHAPTER 10B). The
18 civil penalty for failing to timely file a biennial report or
19 filing false information in such report is increased to an
20 amount of not more than \$10,000 for violations by a foreign
21 person. There is another reference to "each offense" (Code
22 section 10B.6).