

Hall of the House of Representatives
93rd General Assembly - Regular Session, 2021
Amendment Form

Subtitle of Senate Bill No. 312

TO AMEND THE LAW CONCERNING OWNERSHIP AND POSSESSION OF REAL PROPERTY.

Amendment No. 1 to Senate Bill 312

Amend Senate Bill No. 312 as engrossed S3/3/21 (version: 03/03/2021 1:43:09 PM):

Page 1, delete line 28, and substitute the following:

"SECTION 2. Arkansas Code § 2-3-102(1), concerning the definition of "agricultural land" used in the Arkansas Agricultural Foreign Investment Act, is amended to read as follows:

(1)(A) "Agricultural land" means any Arkansas land which is outside the corporate limits of a municipality and is: ~~used or capable, without substantial modification to the character of the land, of use for agricultural, forestry, or timber production,~~

(i) Used for forestry production, including without limitation land exceeding ten (10) acres in which ten percent (10%) is stocked by trees of any size, including land that formerly had trees of any size covering the land that will be naturally or artificially regenerated; or

(ii) Currently used for, or, if currently idle, land last used within the past five (5) years, for farming, ranching, or timber production, except land not exceeding ten (10) acres in the aggregate, if the annual gross receipts from the sale of the farm, ranch, or timber products produced on the land do not exceed one thousand dollars (\$1,000), including without limitation land used for activities described in the Standard Industrial Classification Manual (1987), Division A, exclusive of industry numbers 0711-0783, 0851, and 0912-0919 which cover animal trapping, game management, hunting carried on as a business enterprise, trapping carried on as a business enterprise, and wildlife management.

(B) "Agricultural land" but does not include oil, gas, and all other minerals, including coal, lignite, brine, and all minerals known and recognized as commercial minerals underlying the land;

SECTION 3. Arkansas Code § 2-3-102(3)(D), concerning the definition of "foreign party" used in the Arkansas Agricultural Foreign Investment Act, is amended to read as follows:

(D) Any party other than an individual or a government:

(i) Which is created or organized under the laws of any state; and



(ii) In which a significant interest ~~is directly or indirectly held or in which not insubstantial or substantial control is~~ directly or indirectly held ~~or is capable of being exercised~~ by:

- (a) ~~Any~~ An individual referred to in subdivision (3)(A) of this section;
- (b) ~~Any~~ A foreign government;
- (c) ~~Any~~ A party referred to in subdivision (3)(C) of this section; or
- (d) ~~Any~~ A combination of ~~such~~ individuals, parties, or government referred to in this subdivision (3)(D)(ii) of this section; and

SECTION 4. Arkansas Code § 2-3-102, concerning the definitions used in the Arkansas Agricultural Foreign Investment Act, is amended to add an additional subdivision to read as follows:

(5) "Significant interest" or "substantial control" means:

- (A) An interest of ten percent (10%) or more held by:
 - (i) A party referred to in subdivision (3)(D) of this section;
 - (ii) An individual referred to in subdivision (3)(A) of this section
 - (iii) A party referred to in subdivision (3)(C) of this section; or
 - (iv) A single government referred to in subdivision (3)(B) of this section;
- (B) An interest of ten percent (10%) or more held whenever the parties, individuals, or governments referred to in subdivision (5)(A) of this section are acting in concert with respect to the interest even though no single individual, party, or government holds an interest of ten percent (10%) or more; or
- (C) An interest of fifty percent (50%) or more, in the aggregate, held by parties, individuals, or governments referred to in subdivision (5)(A) of this section even though the individuals, parties, or governments may not be acting in concert.

SECTION 5. Arkansas Code § 2-3-103(a)(1)(A), concerning registration of foreign interest in agricultural land in Arkansas, is amended to read as follows:

(a)(1)(A)(i) When after April 19, 1979, any foreign party acquires any interest in agricultural land in Arkansas by grant, purchase, adverse possession, devise, descent, or in any other manner or any agent, trustee, or fiduciary acquires title to agricultural land in Arkansas on behalf of a foreign party, the foreign party or agent, trustee, or fiduciary shall register the ownership in the office of the circuit clerk in the county in which the land is located within sixty (60) days after the acquisition.

(ii) A foreign party that acquired an interest in agricultural land by reason of grant, purchase, devise, descent, or otherwise before August 1, 2021, and failed to register the ownership as required by subdivision (a)(1)(A)(i) of this section shall be granted a grace period until midnight December 31, 2021, to register the ownership.

(iii) A registration of ownership by a foreign party made by the end of the grace period under subdivision (a)(1)(A)(ii) of this section is proper and not in violation of this section.

SECTION 6. Arkansas Code Title 18, Chapter 11, is amended to add an"

AND

Page 1, delete line 33, and substitute the following:

"18-11-701. Purpose.

Under § 2-4-101, "it is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural and forest lands and other facilities for the production of food, fiber, and other agricultural and silvicultural products".

18-11-702. Definitions."

AND

Page 1, delete lines 34 through 36, and substitute the following:

"(1) "Agricultural land" means the same as provided by § 2-3-102;

(2) "Foreign government" means the same as provided by § 2-3-102;

(3) "Foreign party" means the same as provided by § 2-3-102;

(4) "Interest in agricultural land" means all interest acquired, transferred, or held in agricultural lands including without limitation a lease of agricultural land:

(A) For a term of ten (10) years or longer; or

(B) Renewable by option for terms which, if the options were all exercised, would total ten (10) years;

(5) "Party" means the same as provided by § 2-3-102;

(6) "Prohibited foreign party" means any foreign party that is:

(A) A citizen or resident of a country listed in the International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as it existed on January 1, 2021, or the International Emergency Economic Powers Act, 50 U.S. Code Chapter 35, as it existed on January 1, 2021;

(B) Any foreign government formed within a country listed in the International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as it existed on January 1, 2021, or the International Emergency Economic Powers Act, 50 U.S. Code Chapter 35, as it existed on January 1, 2021;

(C) Any party other than an individual or a government, that is created or organized under the laws of a foreign government within a country listed in the International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as it existed on January 1, 2021, or the International Emergency Economic Powers Act, 50 U.S. Code Chapter 35, as it existed on January 1, 2021, or that has its principal place of business located within a country listed in the International Traffic in Arms Regulations or the International Emergency Economic Powers Act;

(D) Any party other than an individual or a government:
(i) Which is created or organized under the laws of any state; and
(ii) In which a significant interest is directly or indirectly held or in which not insubstantial control is directly or indirectly held or is capable of being exercised by:
(a) Any individual referred to in subdivision (6)(A) of this section;
(b) Any foreign government referred to in subdivision (6)(B) of this section;
(c) Any party referred to in subdivision (6)(C) of this section; or
(d) Any combination of the individuals, parties, or government; or
(E) Any agent, trustee, or other fiduciary of a person or entity enumerated in subdivisions (6)(A)-(D) of this section;
(7) "Residence" means a person's principal dwelling place where the person intends to remain permanently or for an indefinite period of time;
(8) "Resident alien" means a person who:
(A) Is not a citizen of the United States; and
(B) Is a resident of a:
(i) State of the United States;
(ii) Territory of the United States;
(iii) Trusteeship of the United States; or
(iv) Protectorate of the United States; and
(9) "Significant interest" or "substantial control" means the same as provided by § 2-3-102."

AND

Page 2, delete lines 1 through 36

AND

Page 3, delete lines 1 through 36, and substitute the following:

"18-11-703. Limitations on owning agricultural land – Violation.
(a)(1) Except as provided in § 18-11-704, a prohibited foreign party shall not acquire by grant, purchase, devise, descent, or otherwise any interest in agricultural land in this state regardless of whether the prohibited foreign party intends to use the agricultural land for nonfarming purposes.
(2) A party may not hold agricultural land as an agent, trustee, or other fiduciary for a prohibited foreign party in violation of this subchapter.
(b) A prohibited foreign party that acquires agricultural land in violation of this subchapter remains in violation as long as the prohibited foreign party holds an interest in the agricultural land."

AND

Page 4, delete lines 1 through 34, and substitute the following:

“18-11-704. Interest in agricultural land owned by prohibited foreign parties- Exceptions – Penalty.

(a) A prohibited foreign party that owns an interest in agricultural land before the passage of this act may continue to own the interest in agricultural land.

(b)(1) A prohibited foreign party who is or shall become a resident alien of the United States may own an interest in agricultural land.

(2) A prohibited foreign party who is or who shall become a resident alien of the United”

AND

Page 5, delete line 2, and substitute the following:

“(c)(1) If a prohibited foreign party is no longer a resident alien under subsection (b)”

AND

Page 5, delete line 9, and substitute the following:

“statutory foreclosure under § 18-50-101 et seq.

(d) Any interest in agricultural land acquired by a prohibited foreign party, subsequent to the passage of this act and not listed under one (1) of the exceptions set out in subsections (a)-(c) of this section, shall be subject to the proceedings and penalties set forth in §§ 2-3-106 and 2-3-107.”

AND

Page 5, delete line 11 through 36

AND

Page 6, delete lines 1 through 3, and substitute the following:

“18-11-705. Rules.”

The Amendment was read _____
By: Representative Lundstrum
DTP/DTP - 03-23-2021 15:39:08
DTP209 _____ Chief Clerk