

State of Arkansas

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A Bill

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HOUSE BILL 1680

By: Representatives Vaught, Achor, Andrews, Barker, Beaty Jr., Beck, Bentley, S. Berry, Breaux, Brooks, K. Brown, M. Brown, N. Burkes, R. Burkes, Joey Carr, John Carr, Cavanaugh, Childress, C. Cooper, Cozart, Crawford, Eaton, Evans, Furman, Gazaway, Gramlich, Hall, Hawk, Hollowell, L. Johnson, Long, Lundstrum, Lynch, Maddox, McAlindon, McClure, M. McElroy, McGrew, B. McKenzie, McNair, Milligan, J. Moore, Nazarenko, Painter, Pearce, Perry, Pilkington, Puryear, Ray, R. Scott Richardson, Richmond, Rose, Rye, Schulz, M. Shepherd, Steimel, Torres, Tosh, Underwood, Unger, Walker, Wing, Wooten
By: Senator B. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING OWNERSHIP OF REAL PROPERTY AND AGRICULTURAL LAND; TO PROHIBIT A FOREIGN-PARTY-CONTROLLED BUSINESS FROM LEASING AN INTEREST IN LAND; TO DEFINE "CRITICAL INFRASTRUCTURE" AS USED IN RELATION TO FOREIGN OWNERSHIP OF LAND; TO PROHIBIT A PROHIBITED FOREIGN PARTY FROM HOLDING AN INTEREST IN REAL PROPERTY OR AGRICULTURAL LAND IN CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.

Subtitle

TO PREVENT A FOREIGN-PARTY-CONTROLLED BUSINESS FROM LEASING LAND; AND TO PROHIBIT A PROHIBITED FOREIGN PARTY FROM HOLDING AN INTEREST IN REAL PROPERTY OR AGRICULTURAL LAND IN CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-11-110(a)-(c), prohibitions on land ownership by a prohibited foreign-party-controlled business, are amended to



1 read as follows:

2 (a) As used in this section:

3 (1) "Controlling interest" means an ownership interest of fifty
4 percent (50%) or more, in the aggregate;

5 (2)(A) "Critical infrastructure" means physical or virtual
6 systems and assets that:

7 (i) If incapacitated or destroyed would have a
8 debilitating impact on security, national economic security, public health or
9 safety, or any combination of security, national economic security, or public
10 health and safety; and

11 (ii) Are publicly or privately owned.

12 (B) "Critical infrastructure" includes without limitation:

13 (i) A military installation or facility;

14 (ii) An emergency service;

15 (iii) A power generation or transmission location;

16 (iv) A utility;

17 (v) A bridge;

18 (vi) A tunnel;

19 (vii) A railway;

20 (viii) A dam;

21 (ix) A cybersecurity or classified information
22 storage system; and

23 (x) A communication or information technology node
24 or facility;

25 (3) "Prohibited foreign party" means the same as in § 18-11-802;
26 and

27 ~~(3)~~(4) "Prohibited foreign-party-controlled business" means a
28 corporation, company, association, firm, partnership, society, joint-stock
29 company, trust, estate, or other legal entity whose controlling interest is
30 owned by a prohibited foreign party.

31 (b)(1) A prohibited foreign-party-controlled business shall not
32 acquire by grant, purchase, lease, devise, descent, or otherwise any interest
33 in public or private land in this state.

34 (2) A party may not hold or retain public or private land as an
35 agent, trustee, or other fiduciary for a prohibited foreign-party-controlled
36 business in violation of this section.

1 (3) A prohibited foreign-party-controlled business shall not
2 lease any interest in land in this state.

3 (4) A prohibited foreign party shall not hold any interest in
4 agricultural land located within a ten-mile radius of critical
5 infrastructure.

6 (c)(1) A prohibited foreign-party-controlled business entity in
7 violation of this section shall have ~~two (2) years~~ one (1) year to divest of
8 the public or private land.

9 (2) If a prohibited foreign-party-controlled business entity
10 does not divest the public or private land as required by subdivision (c)(1)
11 of this section, the Attorney General shall commence an action in the circuit
12 court within the jurisdiction of the public or private land.

13 (3)(A) If the public or private land is held in violation of
14 this section, the circuit court shall order that the public or private land
15 be sold through judicial foreclosure.

16 (B) Proceeds of the sale shall be first disbursed to lien
17 holders, if any, in the order of priority, except for liens which under the
18 terms of the sale are to remain on the public or private land.

19 (4) The Attorney General shall promptly record a copy of the
20 following in the local land records:

21 (A) Upon commencement, notice of the pendency of an action
22 brought under subdivision (c)(2) of this section; and

23 (B) The order for the sale of the public or private land
24 under subdivision (c)(3)(A) of this section.

25
26 SECTION 2. Arkansas Code § 18-11-802 is amended to read as follows:

27 18-11-802. Definitions.

28 As used in this subchapter:

29 (1)(A) "Agricultural land" means any Arkansas land ~~which~~ that is
30 ~~outside the corporate limits of a municipality and is:~~

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

36 (ii) Currently used for, or, if currently idle, land

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

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

13 (2)(A) "Critical infrastructure" means physical or virtual
14 systems and assets that:

15 (i) If incapacitated or destroyed would have a
16 debilitating impact on security, national economic security, public health or
17 safety, or any combination of security, national economic security, or public
18 health and safety; and

19 (ii) Are publicly or privately owned.

20 (B) "Critical infrastructure" includes without limitation:

21 (i) A military installation or facility;

22 (ii) An emergency service;

23 (iii) A power generation or transmission location;

24 (iv) A utility;

25 (v) A bridge;

26 (vi) A tunnel;

27 (vii) A railway;

28 (viii) A dam;

29 (ix) A cybersecurity or classified information
30 storage system; and

31 (x) A communication or information technology node
32 or facility;

33 (3) "Foreign government" means the same as provided by § 2-3-
34 102;

35 ~~(3)~~(4) "Interest in agricultural land" means all direct interest
36 acquired, transferred, or held in agricultural land, including without

1 limitation a lease of agricultural land+

2 ~~(A) For a term of one (1) year or longer; or~~

3 ~~(B) Renewable by option for terms which, if the options~~
4 ~~were all exercised, would total one (1) year;~~

5 ~~(4)~~(5) "Party" means the same as provided by § 2-3-102;

6 ~~(5)~~(6) "Prohibited foreign party" means:

7 (A) A citizen or resident of a country subject to
8 International Traffic in Arms Regulations, 22 C.F.R. § 126.1, unless the
9 person is also a citizen of the United States;

10 (B) A foreign government formed within a country subject
11 to International Traffic in Arms Regulations, 22 C.F.R. § 126.1;

12 (C) A party or entity other than an individual or a
13 government, that is created or organized under the laws of a foreign
14 government within a country subject to International Traffic in Arms
15 Regulations, 22 C.F.R. § 126.1;

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

18 (i) That is created or organized under the laws of
19 any state; and

20 (ii) In which a significant interest or substantial
21 control is directly or indirectly held or is capable of being exercised by:

22 (a) An individual referred to in subdivision
23 ~~(5)(A)~~ (6)(A) of this section;

24 (b) A foreign government referred to in
25 subdivision ~~(5)(B)~~ (6)(B) of this section;

26 (c) A party or entity referred to in
27 subdivision ~~(5)(C)~~ (6)(C) of this section; or

28 (d) A combination of the individuals, parties,
29 entities, or governments referred to in this subdivision ~~(5)(D)(ii)~~
30 (6)(D)(ii);

31 (E) An Entity of Particular Concern designated by the
32 United States Department of State; or

33 (F) An agent, trustee, or other fiduciary of a person or
34 entity enumerated in subdivisions ~~(5)(A)-(E)~~ (6)(A)-(E) of this section;

35 ~~(6)~~(7) "Residence" means a person's principal dwelling place
36 where the person intends to remain permanently for an indefinite period of

1 time;

2 ~~(7)~~(8) "Resident alien" means a person who:

3 (A) Is not a citizen of the United States; and

4 (B) Is a resident of a:

5 (i) State of the United States;

6 (ii) Territory of the United States;

7 (iii) Trusteeship of the United States; or

8 (iv) Protectorate of the United States; and

9 ~~(8)~~(9) "Significant interest" or "substantial control" means:

10 (A) An interest of thirty-three percent (33%) or more held

11 by:

12 (i) A party referred to in subdivision ~~(5)(D)~~ (6)(D)

13 of this section;

14 (ii) An individual referred to in subdivision ~~(5)(A)~~

15 (6)(A) of this section;

16 (iii) A party referred to in subdivision ~~(5)(C)~~

17 (6)(C) of this section; ~~or~~

18 (iv) A single government referred to in subdivision

19 ~~(5)(B)~~ (6)(B) of this section; or

20 (v) A party acting in concert with one (1) or more

21 prohibited foreign parties;

22 (B) An interest of thirty-three percent (33%) or more held

23 whenever the parties, individuals, or governments referred to in subdivision

24 ~~(5)~~ (6) of this section are acting in concert with respect to the interest

25 even though no single individual, party, or government holds an interest of

26 thirty-three percent (33%) or more; or

27 (C) An interest of fifty percent (50%) or more, in the

28 aggregate, held by parties, individuals, or governments referred to in

29 subdivision ~~(5)~~ (6) of this section even though the individuals, parties, or

30 foreign governments may not be acting in concert.

31
32 SECTION 3. Arkansas Code § 18-11-803 is amended to read as follows:

33 18-11-803. Limitations on owning agricultural land – Violation.

34 (a)(1) Except as provided in § 18-11-804, a prohibited foreign party
35 shall not acquire by grant, purchase, lease, devise, descent, or otherwise
36 any interest in agricultural land in this state ~~regardless of whether the~~

1 ~~prohibited foreign party intends to use the agricultural land for nonfarming~~
2 ~~purposes.~~

3 (2) A party may not hold agricultural land as an agent, trustee,
4 or other fiduciary for a prohibited foreign party in violation of this
5 subchapter.

6 (3) A prohibited foreign party shall not hold any interest in
7 agricultural land located within a ten-mile radius of critical
8 infrastructure.

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

12
13 SECTION 4. Arkansas Code § 18-11-804(b)(1), concerning an interest in
14 agricultural land owned by a prohibited foreign party, is amended to read as
15 follows:

16 (b)(1) If a prohibited foreign party is no longer a resident alien
17 under subsection (a) of this section, he or she shall have ~~two (2) years~~ one
18 (1) year to divest of the agricultural land.

19
20 SECTION 5. Arkansas Code § 18-11-804(e), concerning an interest in
21 agricultural land owned by a prohibited foreign party, is amended to read as
22 follows:

23 (e) A prohibited foreign party or other party acting in concert with a
24 prohibited foreign party as an agent, trustee, or other fiduciary owning
25 agricultural land subsequent to the passage of this subchapter and not listed
26 under one (1) of the exceptions set out in subsections (a) and (b) of this
27 section shall upon conviction be guilty of a felony punishable by not more
28 than two (2) years' imprisonment in the custody of the Division of Correction
29 or a fine of fifteen thousand dollars (\$15,000), or both.

30
31 /s/Vaught
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