

## **CHAPTER 47-10.1**

### **AGRICULTURAL LAND OWNERSHIP BY ALIENS**

#### **47-10.1-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Agricultural land" means land capable of use in the production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit and other horticultural products but does not include any land zoned by a local governmental unit for a use other than, and nonconforming with, agricultural use, but does not include any oil, gas, coal, or other minerals underlying the land, any interest in minerals, separate from the surface, whether acquired by lease or otherwise, or any easements or tracts of land acquired in connection with the extraction, refining, processing, or transportation of minerals.
2. "Controlling interest" means:
  - a. Possession of fifty-one percent or more of the ownership interests in an entity; or
  - b. A percentage ownership interest in an entity of less than fifty-one percent, if the foreign government actually directs the business and affairs of the entity without the requirement or consent of any other party.
3. "Foreign government" means a government or the state-controlled enterprise of a foreign government. The term does not include the government of the United States or its states, territories, or possessions or the government of Canada or its provinces or territories.
4. "Foreign governmental interest in agricultural land" includes the purchase, acquisition, or possession of any absolute or qualified ownership of land by a foreign government, except does not include a leasehold interest.
5. "Interest in agricultural land" includes any leasehold interest.
6. "State-controlled enterprise" means a business enterprise, however denominated, in which a foreign government has a controlling interest.

#### **47-10.1-02. Restriction on acquisition - Exceptions.**

1. An individual who is not a citizen of the United States, a citizen of Canada, or a permanent resident alien of the United States may not acquire directly or indirectly any interest in agricultural land unless:
  - a. The individual is an alien entitled to enter the United States under the provisions of a treaty of commerce and navigation between the United States and the foreign state of which the individual is a national, solely to develop and direct the operations of an enterprise in which the individual has invested or to direct the operations of an enterprise in which the individual is actively in the process of investing a substantial amount of capital;
  - b. The individual resides in this state for at least ten months out of every year;
  - c. The individual actively participates in the operation of the agricultural land;
  - d. The agricultural landholding does not exceed six hundred forty acres [258.99 hectares]; and
  - e. The agricultural landholding includes a dairy operation.
2. An individual who is permitted to acquire an interest in agricultural land under subsection 1 shall:
  - a. Notify the agriculture commissioner of any land acquisition within thirty days of the acquisition; and
  - b. Annually provide the agriculture commissioner with a list of all addresses at which the individual resided during the previous year and the dates during which the individual resided at each address.
3. If an individual ceases to meet the exceptions provided for in subsection 1, the individual shall dispose of the agricultural land within twenty-four months.
4. A partnership, limited partnership, limited liability company, trustee, or other business entity may not, directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial, or otherwise, in any title to agricultural land unless the ultimate

beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens of the United States.

5. This section does not apply to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, that all agricultural land acquired in the collection of debts or by the enforcement of a lien or claim must be disposed of within three years after acquiring ownership if the acquisition would otherwise violate this section.
6. This section does not apply to a foreign corporation or a foreign limited liability company which acquires agricultural land for use as an industrial site when construction contracts are entered into by the corporation or limited liability company within one hundred fifty days after acquisition of the land; provided, that this exception applies only to so much agricultural land as is reasonably necessary for industrial purposes. A foreign corporation or a foreign limited liability company which owns agricultural land for industrial purposes but which discontinues using the land for industrial purposes shall dispose of the land as provided by chapter 10-06.1. A foreign corporation or foreign limited liability company shall dispose of agricultural land acquired for industrial purposes within one year after acquisition if construction contracts are not entered into within one hundred fifty days after acquisition of the land.
7. This section does not apply to citizens or subjects of a foreign country whose rights to hold land are secured by treaty or to common carriers by railroad subject to the jurisdiction of the interstate commerce commission.
8. Notwithstanding subsection 4 and subsection 6, after June 30, 2023, a foreign government may not purchase, acquire, or hold any foreign governmental interest in agricultural land in the state. This section does not apply to any interest in agricultural land held by a foreign government before July 1, 2023.
9. Notwithstanding the provisions of this chapter, the prohibition on ownership of agricultural land does not apply to the acquisition of agricultural land or an interest in agricultural land by a state-controlled enterprise if the agricultural land:
  - a. Is used for agricultural research and development, or experimental purposes, including testing, developing, or producing crop production inputs, including seed, fertilizer, pesticides, soil amendments, plants, or biologicals; and
  - b. Does not exceed one hundred sixty acres [64.75 hectares].

#### **47-10.1-03. Recording.**

Repealed by S.L. 2005, ch. 388, § 1.

#### **47-10.1-04. Enforcement.**

If the attorney general has reason to believe that any person is violating section 47-10.1-02, the attorney general shall commence an action in the district court in which any agricultural land relative to the violation is situated, or if situated in two or more counties, in the district court for that county in which a substantial part of the land is situated. The attorney general shall file for record with the recorder in each county in which any portion of the land is located a notice of the pendency of the action. If the court finds that the land in question is being held in violation of section 47-10.1-02, it shall enter an order so declaring. The attorney general shall file for record any such order with the recorder of each county in which any portion of the land is located. Thereafter, the person, partnership, limited partnership, limited liability company, trustee, or other business entity owning the land has a period of one year from the date of the order to divest itself of the lands. The one-year limitation period is deemed a covenant running with the title to the land against any grantee or assignee. Any land not divested within the time prescribed shall be sold at public sale in the manner prescribed by law for the foreclosure of a real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law. No title to land shall be invalid or subject to forfeiture by reason of the alienage of any former owner or person having a former interest therein.

**47-10.1-05. Reports.**

The commissioner shall monitor for compliance with this chapter all reports transmitted to the commissioner pursuant to the Agricultural Foreign Investment Disclosure Act of 1978 [7 U.S.C. 3501 et seq.]. The commissioner shall make the reports available to the public.

**47-10.1-06. Penalty.**

Any person violating section 47-10.1-02 is guilty of a class A misdemeanor.