

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3077

By: Hays

AS INTRODUCED

An Act relating to foreign ownership of property; defining terms; prohibiting real property ownership by certain parties; providing certain exemptions; requiring divestment of violating property; requiring Attorney General to bring suit for violation; providing for judicial foreclosure of property; providing certain documents to be recorded in the county records office; providing for felony punishment and fines; providing affirmative defense to prosecution; providing when title to real property is not invalid or subject to divestiture; prohibiting agricultural land ownership by certain parties; providing certain exemptions; requiring divestment of violating property; requiring the Office of Agricultural Intelligence upon discovery of a violation to report such violation to the Attorney General; providing that the Attorney General may issue certain subpoenas; providing that the Attorney General upon a certain determination shall commence legal actions; providing for judicial foreclosure of property; providing certain documents to be recorded in the county clerk's office; providing when title to agricultural land is not invalid or subject to divestiture; providing for felony punishment and fines; providing affirmative defense to prosecution; requiring inclusion of certain affidavit with recording of a deed; directing Attorney General to promulgate certain affidavit forms; creating within the Oklahoma Department of Agriculture, Food, and Forestry the Office of Agricultural Intelligence; providing authorized duties; proving the Office shall operate under the direction of the Secretary of the Oklahoma Department of Agriculture, Food, and Forestry; repealing 60 O.S. 2021, Sections 121, as amended by Section 1, Chapter 327, O.S.L. 2023, 122, 123, 124, 125, 126, and 127 (60 O.S. Supp. 2023, Section 121), which relate to alien ownership of

1 land; providing for codification; and providing an
2 effective date.

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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 128 of Title 60, unless there is
7 created a duplication in numbering, reads as follows:

8 As used in this act:

9 1. "Agricultural land" means any land which is outside the
10 corporate limits of a municipality and is:

- 11 a. used for forestry production, including without
12 limitation, land exceeding ten (10) acres in which ten
13 percent (10%) of the land is stocked by trees of any
14 size, including land that formerly had trees of any
15 size covering the land that will be naturally or
16 artificially regenerated, or
- 17 b. currently used for, or, if currently idle, land last
18 used within the past five (5) years, for farming,
19 ranching, or timber production, except land not
20 exceeding ten (10) acres in the aggregate, if the
21 annual gross receipts from the sale of the farm,
22 ranch, or timber products produced on the land do not
23 exceed One Thousand Dollars (\$1,000.00).

1 This does not include oil, gas, and all other minerals,
2 including coal, lignite, brine, and all minerals known and
3 recognized as commercial minerals underlying the land;

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

6 3. "Foreign government" means any government other than the
7 federal government or any government of a state or a political
8 subdivision of a state;

9 4. "Interest in agricultural land" means all direct interest
10 acquired, transferred, or held in agricultural land, including
11 without limitation, a lease of agricultural land:

12 a. for a term of one (1) year or longer, or

13 b. renewable by option for terms which, if the options
14 were all exercised, would total one (1) year;

15 5. "Party" means any individual, corporation, company,
16 association, firm, partnership, society, joint-stock company, trust,
17 estate, or any other legal entity;

18 6. "Prohibited foreign party" means:

19 a. a citizen or resident of a country subject to
20 International Traffic in Arms Regulations, 22 C.F.R.,
21 Section 126.1,

22 b. a foreign government formed within a country subject
23 to International Traffic in Arms Regulations, 22
24 C.F.R., Section 126.1,
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- 1 c. a party other than an individual or a government, that
2 is created or organized under the laws of a foreign
3 government within a country subject to International
4 Traffic in Arms Regulations, 22 C.F.R., Section 126.1,
- 5 d. any party other than an individual or government:
6 (1) that is created or organized under the laws of
7 any state, and
8 (2) in which a significant interest or substantial
9 control is directly or indirectly held or is
10 capable of being exercised by:
11 (a) an individual referred to in subparagraph a
12 of this paragraph,
13 (b) a foreign government referred to in
14 subparagraph b of this paragraph,
15 (c) a party referred to in subparagraph c of
16 this paragraph, or
17 (d) a combination of the individuals, parties,
18 or governments referred to in this division,
- 19 e. an Entity of Particular Concern designated by the
20 United States Department of State, or
- 21 f. an agent, trustee, or other fiduciary of a person or
22 entity enumerated in subparagraphs a through e of this
23 paragraph;
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1 7. "Prohibited foreign-party-controlled business" means a
2 corporation, company, association, firm, partnership, society,
3 joint-stock company, trust, estate, or other legal entity whose
4 controlling interest is owned by a prohibited foreign party;

5 8. "Real property" means all land or property that is not
6 agricultural land;

7 9. "Residence" means a person's principal dwelling place where
8 the person intends to remain permanently for an indefinite period of
9 time;

10 10. "Resident alien" means a person who:

11 a. is not a citizen of the United States, and

12 b. is a resident of a:

13 (1) state of the United States,

14 (2) territory of the United States,

15 (3) trusteeship of the United States, or

16 (4) protectorate of the United States;

17 11. "Significant interest" or "substantial control" means:

18 a. an interest of thirty-three percent (33%) or more held
19 by:

20 (1) a party referred to in subparagraph d of
21 paragraph 6 of this section,

22 (2) an individual referred to in subparagraph a of
23 paragraph 6 of this section,
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- 1 (3) a party referred to in subparagraph c of
2 paragraph 6 of this section, or
3 (4) a single government referred to in subparagraph b
4 of paragraph 6 of this section;

5 b. an interest of thirty-three percent (33%) or more held
6 whenever the parties, individuals, or governments
7 referred to in paragraph 6 of this section are acting
8 in concert with respect to the interest even though no
9 single individual, party, or government holds an
10 interest of thirty-three percent (33%) or more, or

11 c. an interest of fifty percent (50%) or more, in the
12 aggregate, held by parties, individuals, or
13 governments referred to in paragraph 6 of this section
14 even though the individuals, parties, or foreign
15 governments may not be acting in concert.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 128.1 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 A. 1. A prohibited foreign party or a prohibited foreign-
20 party-controlled business shall not acquire by grant, purchase,
21 devise, descent, or otherwise any interest in real property in this
22 state.
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1 2. A party may not hold real property as an agent, trustee, or
2 other fiduciary for a prohibited foreign party or prohibited
3 foreign-party-controlled business in violation of this section.

4 B. A prohibited foreign party or a prohibited foreign-party-
5 controlled business entity in violation of this section shall have
6 two (2) years to divest of the real property.

7 C. If a prohibited foreign party or a prohibited foreign-party-
8 controlled business entity does not divest the real property as
9 required by subsection B of this section, the Attorney General shall
10 commence an action in the district court within the jurisdiction of
11 the real property.

12 1. If the ownership of the real property is determined by the
13 district court to be in violation of this section, the court shall
14 order that the real property be sold through judicial foreclosure.

15 2. Proceeds of the sale shall be disbursed to lienholders, in
16 the order of priority, except for liens which, under the terms of
17 the sale, are to remain on the real property.

18 3. The Attorney General shall promptly record a copy of the
19 following in the county clerk's office of the county where the real
20 property is located:

- 21 a. upon commencement, notice of the pendency of an action
22 brought under this subsection, and
23 b. the order for the sale of the real property under
24 paragraph 1 of this subsection.

1 D. A prohibited foreign party or a prohibited foreign-party-
2 controlled business entity shall, upon conviction, be guilty of a
3 felony punishable by not more than two (2) years' imprisonment or a
4 fine of Fifteen Thousand Dollars (\$15,000.00), or both.

5 E. It is an affirmative defense to prosecution under this
6 section that a prohibited foreign party or prohibited foreign-party-
7 controlled business entity is a resident alien of the State of
8 Oklahoma.

9 F. Title to real property is not invalid or subject to
10 divestiture due to a violation of this section by:

- 11 1. Any former owner; or
- 12 2. Another person holding or owning a former interest in the
13 real property.

14 G. Persons not subject to this section shall be required to
15 determine or inquire into whether another person is or may be
16 subject to this section.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 128.2 of Title 60, unless there
19 is created a duplication in numbering, reads as follows:

20 A. 1. Except as provided in Section 4 of this act, a
21 prohibited foreign party or a prohibited foreign-party-controlled
22 business entity shall not acquire by grant, purchase, devise,
23 descent, or otherwise any interest in agricultural land in this
24 state regardless of whether the prohibited foreign party or a
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1 prohibited foreign-party-controlled business entity intends to use
2 the agricultural land for nonfarming 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
5 this act.

6 B. A prohibited foreign party or a prohibited foreign-party-
7 controlled business entity that acquires agricultural land in
8 violation of this section remains in violation as long as the
9 prohibited foreign party or a prohibited foreign-party-controlled
10 business entity holds an interest in the agricultural land.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 128.3 of Title 60, unless there
13 is created a duplication in numbering, reads as follows:

14 A. A prohibited foreign party or a prohibited foreign-party-
15 controlled business entity, who is a resident alien of the United
16 States, shall have the right to acquire and hold agricultural land
17 in the state upon the same terms as a citizen of the United States
18 during the continuance of his or her residence in the State of
19 Oklahoma.

20 B. 1. If a prohibited foreign party or a prohibited foreign-
21 party-controlled business entity is no longer a resident alien under
22 subsection A of this section, he or she shall have two (2) years to
23 divest of the agricultural land.

1 2. If the prohibited foreign party or a prohibited foreign-
2 party-controlled business entity does not divest of the agricultural
3 land as required by paragraph 1 of this subsection, the Attorney
4 General shall commence an action in district court within the
5 jurisdiction of the agricultural land.

6 3. If the ownership of the agricultural land is held in
7 violation of this section, the district court shall order that the
8 agricultural land be sold through judicial foreclosure.

9 C. 1. When the Office of Agricultural Intelligence determines
10 a prohibited foreign party or a prohibited foreign-party-controlled
11 business entity has acquired agricultural land in Oklahoma in
12 violation of this act, the Office shall report the violation to the
13 Attorney General.

14 2. Upon receiving notice under paragraph 1 of this subsection
15 or upon receipt of information that leads the Attorney General to
16 believe that a violation of this act may exist, the Attorney General
17 may issue subpoenas requiring the:

- 18 a. appearance of witnesses,
- 19 b. production of relevant records, and
- 20 c. giving of relevant testimony.

21 3. If, as a result of the investigation under paragraph 2 of
22 this subsection, the Attorney General concludes that a violation of
23 this act has occurred, the Attorney General shall commence an action
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1 in the district court within the jurisdiction of the agricultural
2 land.

3 4. If the ownership of the agricultural land is held in
4 violation of this act, the district court shall order that the
5 agricultural land be sold through judicial foreclosure

6 D. 1. The proceeds of the sale of agricultural land by
7 judicial foreclosure authorized under this section shall be
8 disbursed to lien holders, in the order of priority, except for
9 liens which under the terms of the sale are to remain on the
10 agricultural land.

11 2. The Attorney General shall promptly record a copy of the
12 following in the county clerk's office where the agricultural land
13 is located:

- 14 a. upon commencement, notice of the pendency of an action
15 brought under paragraph 2 of subsection B and under
16 paragraph 3 of subsection C of this section, and
- 17 b. the order for the sale of the agricultural land under
18 paragraph 3 of subsection B and under paragraph 4 of
19 subsection C of this section.

20 E. Title to agricultural land is not invalid or subject to
21 divestiture due to a violation of this act by:

- 22 1. Any former owner; or
- 23 2. Another person holding or owning a former interest in the
24 agricultural land.

1 F. No person not subject to this act shall be required to
2 determine or inquire into whether another person is or may be
3 subject to this act.

4 SECTION 5. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 128.4 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A prohibited foreign party or prohibited foreign-party-
8 controlled business entity owning agricultural land subsequent to
9 the passage of this act and not listed under one of the exceptions
10 set out in subsections A and B of Section 4 of this act shall, upon
11 conviction, be guilty of a felony punishable by imprisonment for not
12 more than two (2) years, or a fine of Fifteen Thousand Dollars
13 (\$15,000.00), or by both such imprisonment and fine.

14 B. It is an affirmative defense to prosecution under this
15 section that a prohibited foreign party or prohibited foreign-party-
16 controlled business entity is a resident alien of the State of
17 Oklahoma.

18 SECTION 6. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 128.5 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 On or after the effective date of this act, any deed recorded
22 with a county clerk shall include, as an exhibit to the deed, an
23 affidavit executed by the person or entity coming into title
24 attesting that the person, business entity, or trust is obtaining
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1 the land in compliance with the requirements of Sections 2, 3, 4,
2 and 5 of this act and that no funding source is being used in the
3 sale or transfer in violation of Sections 2, 3, 4, and 5 of this act
4 or any other state or federal law. A county clerk shall not accept
5 and record any deed without an affidavit as required by this
6 section. The Attorney General shall promulgate a separate affidavit
7 form for individuals and for business entities or trusts to comply
8 with the requirements of this section, with the exception of those
9 deeds which the Attorney General deems necessary when promulgating
10 the affidavit form.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4101 of Title 2, unless there is
13 created a duplication in numbering, reads as follows:

14 A. There is created within the Oklahoma Department of
15 Agriculture, Food, and Forestry the Office of Agricultural
16 Intelligence.

17 B. The Office of Agricultural Intelligence is authorized and
18 directed to:

19 1. Collect and analyze information concerning the unlawful sale
20 or possession of agricultural land by prohibited foreign parties or
21 prohibited foreign-party-controlled business entity; and

22 2. Administer and enforce the provisions of this Act, including
23 without limitation, the reporting of a violation of this subchapter
24 to the Oklahoma Attorney General under Section 4 of this Act.

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C. The Office of Agricultural Intelligence shall operate under the direction of the Secretary of the Oklahoma Department of Agriculture, Food, and Forestry.

SECTION 8. REPEALER 60 O.S. 2021, Sections 121, as amended by Section 1, Chapter 327, O.S.L. 2023, 122, 123, 124, 125, 126, and 127 (60 O.S. Supp. 2023, Section 121), are hereby repealed.

SECTION 9. This act shall become effective November 1, 2024.

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