

1 AN ACT relating to the acquisition of agricultural land.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Agricultural land" has the same meaning as in 7 U.S.C. sec. 3508;

7 (b) "Fiduciary" has the same meaning as in KRS 131.010;

8 (c) "Foreign agent" has the same meaning as in 18 U.S.C. sec. 1839;

9 (d) "Foreign business" has the same meaning as in 26 C.F.R. sec. 301.7701-5;

10 (e) "Nonresident alien" has the same meaning as in 26 C.F.R. sec. 1.871-2;

11 and

12 (f) "Trustee" has the same meaning as in KRS 218A.405.

13 (2) Notwithstanding any other provision of law to the contrary, except as provided in
14 subsections (3), (4), and (5) of this section, on or after the effective date of this
15 Act, a nonresident alien, foreign business, foreign agent, trustee, or fiduciary
16 who has a legal relationship with or is legally bound to take instruction from or
17 execute decisions for the government of any proscribed country referenced in 22
18 C.F.R. sec. 126.1, as amended, shall be prohibited from:

19 (a) The purchase, lease, or acquisition of any interest in public or private
20 agricultural land located in the Commonwealth of Kentucky; and

21 (b) Participation in programs administered by the Department of Agriculture,
22 Agricultural Development Board, and Kentucky Agricultural Finance
23 Corporation.

24 (3) Any agricultural land purchased, leased, or acquired by a nonresident alien,
25 foreign business, foreign agent, trustee, or fiduciary who has a legal relationship
26 with or is legally bound to take instruction from or execute decisions for the
27 government of any proscribed country referenced in 22 C.F.R. sec. 126.1, as

1 amended, prior to the effective date of this Act may continue to own or hold the
2 agricultural land, but shall not purchase, lease, or acquire any additional
3 agricultural land or interest in agricultural land in this Commonwealth.

4 (4) Nothing in this section shall prohibit:

5 (a) An existing foreign business who has a legal relationship with or is legally
6 bound to take instruction from or execute decisions for the government of
7 any proscribed country referenced in 22 C.F.R. sec. 126.1, as amended,
8 located in the Commonwealth, from purchasing, leasing, or acquiring
9 agricultural land adjacent to the land that the foreign business owns and
10 operates in order to expand the operation of its business; and

11 (b) A nonresident alien, foreign business, foreign agent, trustee, or fiduciary
12 who has a legal relationship with or is legally bound to take instruction
13 from or execute decisions for the government of any proscribed country
14 referenced in 22 C.F.R. sec. 126.1, as amended, from the purchase, lease, or
15 acquisition of up to three hundred fifty (350) acres of agricultural land for
16 agricultural research and development or experimental purposes, including
17 testing, development, or production of any crop production inputs for sale
18 or resale to farmers, including but not limited to seeds, plants, pesticides,
19 soil amendments, biologicals, or fertilizers.

20 (5) A nonresident alien, foreign business, foreign agent, trustee, or fiduciary may
21 own, purchase, hold, or develop agricultural land for immediate or potential
22 nonagricultural use in an amount necessary for the conduct of its
23 nonagricultural business operation, including the filing of any permit or
24 application to any state or federal agency having jurisdiction over the project for
25 permitting purposes, provided that:

26 (a) Development of the nonagricultural business operation has been completed
27 within five (5) years from acquiring the land. Failure to develop the land

1 within that time shall be deemed a violation of this section; and

2 (b) The agricultural land shall not be used for farming, except under lease to a
3 family farm unit, family farm corporation, or an authorized farm
4 corporation, pending the development of the agricultural land for a
5 nonagricultural use.

6 (6) Nothing in this section shall exempt a nonresident alien, foreign business,
7 foreign agent, trustee, or fiduciary who has a legal relationship with or is legally
8 bound to take instruction from or execute decisions for the government of any
9 proscribed country referenced in 22 C.F.R. sec. 126.1, as amended, from:

10 (a) The provisions of the Agricultural Foreign Investment Disclosure Act, 7
11 U.S.C. sec. 3501 et seq., and its accompanying regulations at 7 C.F.R. pt.
12 781 et seq. or any amendments thereto; and

13 (b) Filing a copy of the required report pursuant to 7 U.S.C. sec. 3501 et seq.
14 and its accompanying regulations at 7 C.F.R. pt. 781 et seq., or amendments
15 thereto, with the Department of Agriculture within the time period specified
16 therein.

17 (7) The Department of Agriculture shall review any report:

18 (a) Received in accordance with subsection (6) of this section; and

19 (b) Voluntarily submitted by a county register of deeds alleging a violation of
20 this section.

21 (8) If the Department of Agriculture has reason to believe that a violation of this
22 section may have occurred, the department shall refer evidence of noncompliance
23 to the Office of the Attorney General, who shall investigate the evidence for
24 violations of this section. The Office of the Attorney General may bring an action
25 pursuant to KRS Chapter 15 to enforce the provisions of this section.

26 (9) (a) If the court finds that agricultural land has been purchased or acquired in
27 violation of this section, then the court shall declare the agricultural land

1 escheated to the state and order the sale of the agricultural land in the
2 manner provided by law for the judicial foreclosure of a mortgage on real
3 estate for default of payment. After the Office of the Attorney General has
4 been reimbursed for all actual costs incurred from the enforcement of this
5 provision, the proceeds of the sale of the agricultural land pursuant to this
6 paragraph through judicial foreclosure shall be disbursed in the following
7 order:

8 1. Payment of delinquent ad valorem taxes;

9 2. Payment to mortgage and other lien holders, in the priority determined
10 by the court; and

11 3. Deposit in the budget reserve trust fund.

12 (b) If the court finds that agricultural land has been leased in violation of this
13 section, then the court shall rescind the lease and it shall be rendered null
14 and void.