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Restrictions on Foreign Ownership of Missouri Agricultural Land

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Missouri law restricts foreign ownership of agricultural land. The law is found in *Missouri Revised Statutes*, Chapter 442.560 - 442.592. This source gives the full text of the law and, thus, all its provisions. Copies are available in public libraries, some local government offices, and attorneys' offices.

The purpose of the law is to severely limit the future purchase of Missouri agricultural land by non-resident aliens and foreign businesses.

Definitions

To help interpret the law, sections 442.566 and 442.592 provide definitions of six important terms.

Agricultural land - any tract of land in this state consisting of more than five acres, whether inside or outside the corporate limits of any municipality, which is capable, without substantial modification to the character of the land, of supporting an agricultural enterprise, including but not limited to land used for the production of agricultural crops or fruit or other horticultural products, or for the raising or feeding of animals for the production of livestock or livestock products, poultry or poultry products, or milk or dairy products. Adjacent parcels of land under the same ownership shall be deemed to be a single tract.

Alien - any person who is not a citizen of the United States and who is not a resident of the United States or of some state, territory, trusteeship, or protectorate of the United States.

Director - the director of the Missouri Department of Agriculture.

Foreign business - any business entity whether or not

incorporated, including but not limited to corporations, partnerships, limited partnerships, and associations, in which a controlling interest is owned by aliens. In determining ownership of a foreign business, legal fictions such as corporate form or trust shall be disregarded.

Foreign person -

- a. An individual who is not a citizen of the United States and who has not been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act or who has not been made a citizen by an act of Congress.
- b. An entity, other than an individual or a government, that is created or organized under the laws of a nation other than the United States, or that has its principal place of business in a foreign nation.
- c. An entity, other than an individual or a government, that is created or organized under the laws of the United States or of some state, territory, trusteeship, or protectorate of the United States and that, as defined in regulations to be prescribed by the director, is substantially controlled by individuals referred to in a above, entities referred to in b above, governments of foreign nations or any combination of such individuals, entities, or governments.
- d. A government of a foreign nation.

Residence - the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, where he intends to remain permanently or for an indefinite period of time at least.

The Prohibition

Section 442.571 spells out that no alien or foreign business shall acquire agricultural land in Missouri. It

further prohibits any person from holding agricultural land as proxy for an alien or foreign business. Not only is ownership prohibited but so also are long term leases of agricultural land. The lease prohibition is explained in 442.581.

Reporting

Section 442.592 required any foreign person holding any interest (including leaseholds of ten or more years and beneficial interests in the agricultural land under contracts of sale or similar arrangements), other than a security interest, in agricultural land on September 28, 1979, to submit a report to the director of the Missouri Department of Agriculture no later than November 27, 1979. This report was to give the details of the holdings and the kind of agricultural activity in which the holder was engaged.

In addition, any interest acquired or transferred must also be reported to the director no later than 30 days after the acquisition or transfer.

Reporting is waived for agricultural land being used for the extraction, refining, processing or transportation of oil, gas, coal or lignite.

The director must analyze the reports and make reports of each analysis to the governor and the General Assembly.

Enforcement

The director of agriculture and the attorney general share in the enforcement of this law. The details are spelled out in 442.576 and 442.592(6).

Penalties

Failure to file required reports makes the foreign person liable to the state in civil penalty. The circuit court determines the civil penalty, which may not exceed 25 percent of the fair market value of the interest in the agricultural land subject to the provisions of this act.

Holding agricultural land in violation of this act requires the attorney general to file suit. If the court finds agricultural land to be held in violation of this act, the court must order the owner to divest himself of the agricultural land within two years. If divestiture is not completed in the required time, the remaining agricultural land must be sold by the court at a public sale in the manner prescribed by law for the foreclosure of a mortgage on real estate for default in payment.

Exceptions

This act does not apply to agricultural land owned by aliens or foreign businesses before the enactment of this act, so long as ownership remains unchanged. Nor does the act apply to aliens who are or shall take up bona fide residence in the United States. (An alien who ceases to be a bona fide resident has two years to divest himself of agricultural land, and if he does not, the court orders public sale.) There is also an exception for dealings involving Title IV of the Housing and Urban Development Act of 1969, 42 U.S.C. 3901-3914.

The act does not apply to agricultural land acquired for non-farming purposes. However, if the land is farmed while awaiting conversion to non-agricultural use, there are restrictions as to who may farm it.

Nut Shell Summary

Missouri law makes it illegal for foreign owners to acquire more than five acres of Missouri farmland for long term agricultural use.