



RESEARCH MEMORANDUM

To: Rep. Paul Thomas, North Dakota

From: Center of Innovation, The Council of State Governments
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Re: Your request of April 1 for an analysis of state legislation and proposals regarding limits to business ownership and operation regarding a foreign adversary.

Date: April 7, 2023

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Executive Summary

The United States has no shortage of global agreements and business ties. However, as political tensions rise between the US and certain foreign adversaries, there has been a growing prioritization of national security interests when foreign companies are considering doing business in the US. In September of last year, President Biden signed an executive order related to the "evolving national security landscape" and the assessments that the Committee on Foreign Investment in the United States, state governments, businesses, and individuals should make regarding foreign investments and business transactions. In addition to federal laws, such as the 1978 Agricultural Foreign Investment Disclosure Act (AFIDA), states have implemented and proposed whole or partial restrictions on foreign ownership of agricultural land as foreign holdings have increased to around 40 million acres as of 2021. State investments, such as pension asset funds, have been reviewed for potentially risky investments in nations deemed foreign adversaries. Additionally, several states have registration and reporting requirements for foreign corporations that wish to conduct business within the state.

Despite an extensive search for information regarding state legislation and proposals that specifically target limiting foreign ownership and operation of businesses by foreign adversaries, no concrete information was found. While there are instances of states implementing restrictions on foreign ownership of agricultural land, these measures tend



to apply more broadly to all foreign investors rather than focusing exclusively on foreign adversaries.

Findings and Analysis

State policies on foreign ownership focus almost exclusively on agricultural land ownership. The rise in foreign ownership of U.S. farmland, with an average increase of 2.2 million acres per year since 2015, has led to the implementation of restrictions in several Midwestern states. South Dakota and other states like Iowa, Kansas, and Wisconsin have enacted strict prohibitions on foreign ownership of agricultural land, but foreign investors can still use trusts or partnerships with U.S. businesses to bypass these restrictions. In response to growing concerns about food and national security, Indiana passed legislation in 2022 partially banning foreign purchases of agricultural land used for crop or timber production, with exemptions for livestock, poultry, and research facilities.

Alabama

The proposed [Senate Bill 14](#) (2021), which ultimately failed, would have restricted the purchase and ownership of agricultural land to United States citizens and resident aliens. Nonresident aliens, foreign businesses and foreign governments or agents of foreign governments may not purchase or hold agricultural land (after the effective date of the bill). Acquiring agricultural land by devise or descent or due to a security interest of the land are provided as exceptions, given that the land is sold or disposed of within two years of their acquisition.

[Section 10A-1-7](#) of the Code of Alabama requires foreign entities to register with the Secretary of State in order to conduct business within the state.

Alaska

Proposed [House Bill 94](#) aims to ban the use of Alaskan ports for ships owned by or carrying cargo from a foreign-owned entity from countries such as Syria, Iran, Russia, China etc.

Alaska Statutes [10.06.811](#) requires domestic and foreign corporations to file biennial reports on the business conducted, directors and officers, shares issued and alien affiliates (a noncitizen or nonresident of the United States or an entity organized under or controlled by another country). [10.06.813](#) requires reports to be amended if there is a change in alien affiliates of the corporations.

Arizona

Proposed [Senate Bill 1115](#) would prevent the sale of state lands to “foreign entit[ies]” defined as foreign governments or state-controlled enterprises of foreign governments.

Similarly, proposed [House Bill 2376](#) would amend Arizona Revised Statutes to prevent the sale of state lands to foreign entities as defined above and additionally defined as



any company or similar entity headquartered or associated with countries such as China, Cuba, Iran, Russia etc.

Arkansas

Senate Bill 312, with language drawn from Missouri law, originally intended to restrict ownership of agricultural land by foreign entities. The version of the bill codified into law, however, only requires “foreign persons” to report their interest in ownership of agricultural lands to the Secretary of the Arkansas Department of Agriculture.

Arkansas Code § 4-27-1501 requires foreign corporations to obtain a certificate of authority from the Secretary of State in order to conduct business within the state.

California

Senate Bill 1084, eventually vetoed by Governor Newsom, intended to prohibit foreign governments from “purchasing, acquiring, or holding an interest in agricultural land” within California, with land held prior to January 1, 2023 being exempt. It also would have required an annual report from the Department of Food and Agriculture detailing the quantity and purpose of existing land holdings by foreign owners.

Illinois

Illinois Compiled Statutes Chapter 765.50, known as the “Agricultural Foreign Investment Disclosure Act” requires any foreign person (defined as a non US citizen without permanent residence, foreign corporation, foreign government or agent of a foreign government) to disclose ownership of agricultural land to the Director of Agriculture within a time period of 90 days.

Indiana

Senate Bill 388, enacted in 2022, stated that after June 30 of that year, no foreign business entity could acquire agricultural land for the purposes of crop farming or timber production by any means including by grant, devise, descent or purchase. Exceptions apply to land used for research and development, are of a limited size (320 acres for crop farming and 10 acres for timber production), are used for a “confined feeding operation” or for the production of poultry or eggs. Foreign business entities who do acquire land must report it to the Secretary of State and Attorney General for review.

Additionally, any corporation, partnership or other business entity organized or controlled by citizens of the Russian Federation who are not legal United States residents may not acquire or purchase property within Indiana.

Iowa

Iowa Code §91.3 states that nonresident aliens, foreign businesses, foreign governments or agents of foreign governments may not purchase or acquire agricultural land, except as acquired through devise or descent, a collection of debts or for the purpose of security or research or if it was acquired prior to 1980.



Kansas

Kansas Statutes [§17-7505](#) puts forth requirements for reporting business and agricultural holdings to the Secretary of State. Foreign corporations doing business in Kansas or owning capital in Kansas are subject to this law, by reporting on business interests and holdings. Agricultural land ownership reports are to describe land acreage, value and ownership.

[Proposed Senate Bill 291](#) would direct the Board of Trustees of the Kansas Public Employees Retirement System to “divest from any indirect holdings in actively or passively managed investment funds or private equity funds containing publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary.”

Kentucky

[House Bill 500](#) aims to prohibit nonresident aliens, foreign businesses and agents associated with foreign governments from purchasing, leasing or acquiring any interest in public or private land within Kentucky, exempting those with land holdings prior to the effective date of the bill.

Louisiana

Louisiana Revised Statutes [§3422](#) states that in order for a foreign partnership to have the same operating rights and privileges of a domestic partnership, they must register with the Secretary of State with information regarding locations and addresses of operations and partners as well as taxpayer identification information.

Maine

Main Statutes [Title 7 §33](#) requires foreign corporations or partnerships to submit an annual report to the Commissioner of Agriculture, Conservation and Forestry if they hold, acquire or transfer agricultural land. Federal AFIDA reports may be submitted, but otherwise information such as the nature of the corporation’s interest in the land, the land value and acreage is to be provided.

Maryland

Maryland Corporations and Associations Code [§ 7-202](#) requires foreign corporations to register with the Department of Labor and provide an address and resident agent in the state, in addition to proof of “good standing in the jurisdiction where it currently is organized.”

Massachusetts

Massachusetts General Laws [Title 22 § 156D.15.03](#) states that corporations shall file a certificate with the Secretary of State no more than 10 days after a business transaction in the state. The certificate is to include information such as activities that the corporation will conduct, address information and director and officer information.

Minnesota



Minnesota [§ 500.221](#) states that aliens that are not permanent residents of the United States as well as non-American corporations are prohibited from owning agricultural land or interests unless at least 80% of each class of stock is owned by US citizens or residents. Land acquired through debt repayment or devise must be disposed of within 3 years of ownership.

Mississippi

[House Bill 280](#) approved the creation of a committee to study the purchase, leasing and holding of agricultural land by foreign governments. Some points of interest in the study will be how much land is held by a foreign government, the purpose and usage of the holdings and any changes in this ownership over time.

Missouri

Missouri code [§442.560](#) through [442.591](#) discusses real estate ownership by citizens and non-citizens/foreign corporations. In particular, [§442.571](#) prevents alien or foreign businesses from acquiring or purchasing agricultural land if the "total aggregate alien and foreign ownership of agricultural land in this state exceeds one percent of the total aggregate acreage."

Nebraska

Nebraska Revised Statutes [§ 76-406](#) prohibits domestic and foreign corporations from appointing a majority of nonresident aliens to their board of directors or trustees, electing nonresident aliens as executive officers or managers or allowing nonresident aliens to hold a majority of capital stock.

New Jersey

Proposed [Senate Bill 3735](#) would establish a review of state investments (such as pension and annuity fund assets) in foreign companies with equity ties to foreign adversaries.

Ohio

Ohio Revised Code [§ 5301.254](#) requires corporations or businesses organized under a foreign nation in which "any number of nonresident aliens acquire at least 40% of the shares of stock or other interests" and has an interest in property with a market value over \$100,000 must submit information to the Secretary of state within 30 days of acquiring interest in the property. Information must include business addresses, intended use of the property, the percentage of stock owned by nonresident aliens and other administrative details.

Pennsylvania

Pennsylvania Statutes [Title 68 §41 through 47](#) details restrictions and provisions on aliens and foreign corporations. [§41](#) states that nonresident aliens and foreign governments may not hold an interest in more than 100 acres of land unless that right is secured by treaty or devise and descent. [§45](#) states that the Department of Agriculture monitors compliance and biannual reports of the AFIDA Law.



Vermont Statutes [Title 11A § 15.01](#) requires foreign corporations to obtain a certificate of Authority from the Secretary of State before transacting business.

Virginia

[House Bill 1438](#), expected to be signed into law, would prevent any foreign adversary from acquiring an interest in agricultural land beginning July 1, 2023. Foreign adversary is defined as “any foreign government or nongovernment person determined by the U.S. Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States.” Interest in agricultural land is defined as “any right, title, or interest, direct or indirect, in and to (i) agricultural land or (ii) any entity or other organization that holds any right, title, or interest, direct or indirect, in and to agricultural land.”

The Code of Virginia [§ 13.1-919](#) requires foreign corporations to obtain a certificate of authority from the State Corporation Commission before transacting business.

Washington

Washington Revised Code [Title 23 § 95.05](#) requires foreign entities to register with the Secretary of State before doing business.

Wisconsin

Wisconsin Statutes [§ 710.02](#) allows foreign corporations and corporations with more than 20% of their stock owned by foreign companies to hold up to 640 acres of land.

Other Resources

Statement on Bipartisan Foreign Adversary Risk Management (FARM) Act

- Addresses increase in agricultural land ownership by foreign countries as a food security and national security risk.
- [Senate Bill 2931](#)

2021 Executive Order: Protecting Americans' Data from Foreign Adversaries

2019 Executive Order: Securing Information and Communications Technology

- Final interim rules [explanation](#)

US Department of Agriculture: Agricultural Foreign Investment Disclosure Act (AFIDA)

The Council of State Governments (Midwest) Brief on Foreign Ownership of Farmland

- Addresses legislators concerns and actions