

2011 HOUSE AGRICULTURE

HB 1367

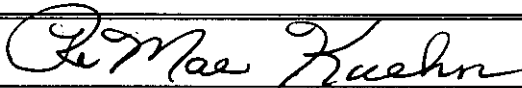
2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1367
January 27, 2011
Job # 13539

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to reports of agricultural land ownership by aliens; and to provide a penalty

Minutes:

Representative Schatz, Co-Sponsor: All the land owned by aliens or people from outside the United States has to be reported to the Ag. Dept. if owned by a person of foreign nationality on an annual basis. It is also federal law for purchases, transfer, or sale of land by non Americans. The feds send these reports to the ND Ag. Dept. but not all the foreign landowners send it to the ND Ag. Dept. Since the feds report to North Dakota, it is duplication and the foreign landowners have to do it twice. This bill eliminates the need to report to the ND Ag. Dept.

Dane Braun, Program and Policy Analyst, ND Dept. of Agriculture: (See attachments #1, 2, 3)

Representative Mueller: Currently you folks are doubling up. Do you find in that process where there might be some inconsistencies? Do your records coincide with what you are getting from the federal government?

Dane Braun: There has been a lack of reports submitted to us. We don't get reports annually from the landowners like the law states. We receive the United States Department of Agriculture reports every six months.

Representative Mueller: The ones you do get coincide with the federal information?

Dane Braun: We haven't received them lately. I haven't seen those reports.

Representative Boe: If the land was purchased prior to 1979 it is grandfathered in. Are they still required to report?

Dane Braun: By law they are required to report annually to us but do not do it.

Representative Boe: Can foreign investors continue to purchase land today?

Dane Braun: Yes, there are exceptions. If you are a citizen of Canada or permanent resident alien of the United States, you can acquire land or if you inherit it.

Opposition: none

Chairman Johnson: Closed the hearing

Representative Belter: **Moved Do Pass**

Representative Schatz: **Seconded the motion**

A Roll Call vote was taken. **Yes: 11, No: 0, Absent: 3,**
(Representatives Rust, Wall, Mueller)

Motion for DO PASS carried

Representative Schatz will carry the bill.

Date: 1/27/11

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1367

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Belter Seconded By Representative Schatz

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe	X	
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman	X	
Craig Headland	X		Phillip Mueller	AB	
David Rust	AB				
Mike Schatz	X				
Jim Schmidt	X				
Wayne Trottier	X				
John Wall	AB				
Dwight Wrangham	X				

Total **Yes** 11 **No** 0

Absent 3

Bill Carrier Representative Schatz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1367: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO PASS**
(11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1367 was placed on the
Eleventh order on the calendar.

2011 SENATE AGRICULTURE

HB 1367

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1367
March 24, 2011
Job # 15929

☐ Conference Committee

Committee Clerk Signature

Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to reports of agricultural land ownership by aliens; and to provide a penalty.

Minutes:

Attachments: #1

Senator Flakoll; Meeting called to order on HB 1367 at 10:15 am, March 24, 2011.

Rep Mike Schatz: District 36. All land is required to be reported to the Ag Dept. if owned by a person of foreign nationality on annual bases. A federal law any purchase, transfer or sale of land by non-Americans be reported. The feds send these reports to the ND Ag Dept but not all foreign owners are sending them to ND Ag Dept. The feds report to ND is duplication to have the foreign owners do it twice. This bill eliminates the need to report to ND Ag Dept.

Dane Braun: Program and policy Analyst; ND Dept of Agriculture. (Attachment #1)
Support HB 1367

Senator Luick: How many acres of foreign alien purchases?

Dane Braun: Don't have those numbers.

Senator Luick; Number of acres per year. Who are the purchasers of this land?

Dane Braun: Canadians are the majority owners. We are monitoring if there is anyone in violation of the law. Anyone who should not be purchasing land or holding of land.

Senator Heckaman; Do all these foreign purchasers follow ND laws pertaining to corporate farming?

Dane Braun: Not sure on the law.

Senator Klein; What you look at on the list....what is the check list?

Dane Braun: We look to see how the land was acquired, if it was purchased or inherited because land inherited has different requirements. We determine if they can keep the land

in their ownership or need to sell the land or if they are in violation of this Code. Inform the Attorney General if in violation.

Senator Klein: Do you spend much time on this?

Dane Braun: No. About 3-4 reports every 6 months.....quick glance to see what report is about. We have few records of previous owners.

Senator Miller: What would be a prohibiting factor for alien not to own land?

Dane Braun: Law says no alien can own land unless permanent resident alien or if they are a Canadian agricultural land. This is in law right now; we are to receive reports from the land owners that have land previous to 1979. Intent of the law is they are not adding additional land. Don't have a number on how many people are left owning landGrandfather in.

Senator Luick: Doesn't make difference if individual or entity of any other structure?

Dane Braun: It doesn't matter.....limited partnership, limited liability company, trustee, in the Century Code. Similar requirements.

Senator Larsen: Minimum of the agricultural land that they can fall under?

Dane Braun: There are requirements. If alien, they can purchase land if it doesn't exceed 640 acres and have to have dairy operation on the land and participate in the operation and must reside in the state for 10 months of the year.

Senator Heckaman: What is the penalty?

Dane Braun: Penalty is section 2 of chapter 47-1001. Penalty is they cannot legally purchase the land.

Senator Flakoll: (Example: ND farmer marries a foreigner)

Dane Braun: Unsure They would have time to process the report. If it is a gift or inheritance?

Senator Flakoll: If they are in violation, guilty, can they be deported? If you become a citizen and violate the American laws, are you subject to being deported?

Dane Braun: Not sure if penalty is a Class A Misdemeanor

Senator Miller: Is there a penalty to anyone who sells to an illegal alien?

Dane Braun: No

Senator Flakoll: Opposition?

Senator Flakoll; Close hearing?

Senator Klein; Move for a Do Pass on HB 1367

Senator Larsen; Second

Senator Flakoll; Discussion? Clerk take roll for Do Pass HB 1367

Clerk: 7-0-0

Senator Flakoll; Senator Luick will carry bill.

Senator Flakoll; Adjourned.

Date: 3/24/11

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1367

Senate Agriculture Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Klein Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	✓		Senator Heckaman	✓	
Vice-Chair Oley Larsen	✓				
Senator Klein	✓				
Senator Luick	✓				
Senator Miller	✓				
Senator Murphy	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Luick

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1367: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1367 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1367

COMMISSIONER
DOUG GOEHRING



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Testimony of Dane Braun, Program and Policy Analyst
North Dakota Department of Agriculture
House Bill 1367
House Agriculture Committee
Peace Garden Room
9:30 AM, January 27, 2011

Chairman Johnson and members of the House Agriculture Committee, I am Dane Braun, the Program and Policy Analyst at the North Dakota Department of Agriculture (NDDA). I am here today on behalf of Agriculture Commissioner Doug Goehring in support of HB 1367, which will amend North Dakota Century Code (NDCC) §47-10.1-05 and §47-10.1-06 relating to reports of agricultural land ownership by aliens and the penalty.

The intent of the bill is to streamline the reporting process for alien ownership of agricultural land. By law, the NDDA receives two sets of reports, one from the United States Department of Agriculture on purchases and transfers of agricultural land by aliens, and the second by alien owners of land who acquired their land prior to July 1, 1979, and prohibited from purchasing additional agricultural land. The former is more than sufficient to maintain the intent of the law and the latter has been inconsistent in reporting and would be removed by this bill.

Section 1 of the bill removes the State reporting requirement for foreign agricultural landowners who purchased their land prior to July 1, 1979 and prohibited from purchasing additional agricultural land. Instead, the agriculture commissioner is to monitor reports transmitted to the commissioner pursuant to the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 et seq.).

Under Title 7, §3501 through §3508 of the United States Code (U.S.C.), any foreign person who

acquires or transfers any interest in agricultural land must submit a report to the United States Secretary of Agriculture. The report includes the purchaser's legal name, address, and citizenship, along with the legal description, acreage, and purchase price of the agricultural land. The Secretary of Agriculture may investigate and assess a civil penalty on individuals who fail to submit a report or falsify their report. Every six-month period the Secretary of Agriculture shall transmit to each State department of agriculture a copy of each report that was submitted to the Secretary in that six-month period for agricultural land located in such State.

Section 2 of the bill amends §47-10.1-06 of the NDCC relating to the penalty section. This narrows the scope of the penalty from all sections of Chapter 47-10.1 to only the section relating to restrictions of acquisition of agricultural land by aliens (§47-10.1-02). We have been advised by our legal counsel that the penalty should only relate to the restriction on acquisition section of the chapter and not the definition, enforcement, and reports section.

It is my understanding from the advice of our legal counsel that pre-1979 acquisitions would not violate this chapter if the bill passes. The language I am referring to is on Page 1, lines 8-10, "Any individual, partnership, limited partnership, limited liability company, trustee, or other business entity prohibited from future acquisition of agricultural land may retain title to any agricultural land within this state acquired prior to July 1, 1979." However, if there is concern that this grandfather clause should be reinstated then I recommend putting the clause in a different section of this chapter, §47-10.1-02. This section relates to restrictions on acquisition of agricultural land by aliens and exceptions to those restrictions.

Chairman Johnson and committee members, Commissioner Goehring urges a "do pass" on HB 1367. I would be happy to answer any questions you may have.

Thank you.

4/27/11

#2
Dana Braun

tive administration of this chapter or to determine whether any person subject to the provisions of this chapter has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

(Pub. L. 95-113, title XVII, § 1713, Sept. 29, 1977, 91 Stat. 1039.)

§ 3413. Certification of organizations

The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 3403(a) of this title and to participate in the making of nominations under section 3405(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

- (a) geographic territory covered by the organization's active membership,
- (b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,
- (c) evidence of stability and permanency of the organization,
- (d) sources from which the organization's operating funds are derived,
- (e) functions of the organization, and
- (f) the organization's ability and willingness to further the aims and objectives of this title:

Provided, That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: *Provided further*, That the primary consideration in determining the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this chapter.

(Pub. L. 95-113, title XVII, § 1714, Sept. 29, 1977, 91 Stat. 1039.)

§ 3414. Other programs relating to wheat or wheat food research or nutrition education

Nothing in this chapter shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

(Pub. L. 95-113, title XVII, § 1715, Sept. 29, 1977, 91 Stat. 1040.)

§ 3415. Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 95-113, title XVII, § 1716, Sept. 29, 1977, 91 Stat. 1040.)

§ 3416. Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 95-113, title XVII, § 1717, Sept. 29, 1977, 91 Stat. 1040.)

§ 3417. Authorization of appropriations

There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 95-113, title XVII, § 1719, Sept. 29, 1977, 91 Stat. 1040.)

CHAPTER 66—AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE

Sec.
3501. Reporting requirements.

Sec.	
3502.	Civil penalty.
3503.	Investigative actions.
3504.	Repealed.
3505.	Reports to the States.
3506.	Public inspection.
3507.	Regulations.
3508.	Definitions.

§ 3501. Reporting requirements

(a) Acquisitions or transfers of certain agricultural land interests by foreign persons

Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

- (1) the legal name and the address of such foreign person;
- (2) in any case in which such foreign person is an individual, the citizenship of such foreign person;
- (3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;
- (4) the type of interest in agricultural land which such foreign person acquired or transferred;
- (5) the legal description and acreage of such agricultural land;
- (6) the purchase price paid for, or any other consideration given for, such interest;
- (7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—
 - (A) in any case in which such transferee is an individual, the citizenship of such transferee; and
 - (B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;
- (8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and
- (9) such other information as the Secretary may require by regulation.

(b) Agricultural land interests presently held by foreign persons

Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

- (1) the legal name and the address of such foreign person;
- (2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Change in foreign person status of interest holders

Any person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Conversion of land to agricultural uses

Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) Additional reports by foreign persons other than individuals or governments

With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) Persons holding interests under subsection (e)

With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may require such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principle¹ place of business of such holder.

(Pub. L. 95-460, § 2, Oct. 14, 1978, 92 Stat. 1263.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsecs. (b) to (d), see section 10(b) of Pub. L. 95-460, set out as an Effective Date note below.

EFFECTIVE DATE

Section 10 of Pub. L. 95-460 provided that:

"(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall become effective on the date of the enactment of this Act [Oct. 14, 1978].

"(b) Section 2 [section 3501 of this title] shall become effective on the date on which regulations prescribed by the Secretary under section 8 [section 3507 of this title] become effective."

SHORT TITLE

Section 1 of Pub. L. 95-460 provided that: "This Act [enacting this chapter] may be cited as the 'Agricultural Foreign Investment Disclosure Act of 1978'."

§ 3502. Civil penalty

(a) If the Secretary determines that a person—
(1) has failed to submit a report in accordance with the provisions of section 3501 of this title, or

(2) has knowingly submitted a report under section 3501 of this title—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false,

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

¹ So in original. Probably should be "principal".

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary determines to be appropriate to carry out the purposes of this chapter, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

(Pub. L. 95-460, § 3, Oct. 14, 1978, 92 Stat. 1265.)

§ 3503. Investigative actions

The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this chapter and to determine whether the information contained in any report submitted under section 3501 of this title accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section.

(Pub. L. 95-460, § 4, Oct. 14, 1978, 92 Stat. 1265.)

§ 3504. Repealed. Pub. L. 105-362, title I, § 101(f), Nov. 10, 1998, 112 Stat. 3281

Section, Pub. L. 95-460, § 5, Oct. 14, 1978, 92 Stat. 1265; Pub. L. 104-66, title I, § 1012(g), Dec. 21, 1995, 109 Stat. 712, provided for reports to Congress and the President.

§ 3505. Reports to the States

Not later than 30 days after the end of each 6-month period beginning after the effective date of section 3501 of this title, the Secretary shall transmit to each State department of agriculture, or such other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 3501 of this title during such 6-month period and which involved agricultural land located in such State.

(Pub. L. 95-460, § 6, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

For the effective date of section 3501 of this title, referred to in text, see section 10(b) of Pub. L. 95-460, set out as an Effective Date note under section 3501 of this title.

§ 3506. Public inspection

Any report submitted to the Secretary under section 3501 of this title shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

(Pub. L. 95-460, § 7, Oct. 14, 1978, 92 Stat. 1266.)

§ 3507. Regulations

Not later than 90 days after October 14, 1978, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this chapter.

(Pub. L. 95-460, § 8, Oct. 14, 1978, 92 Stat. 1266.)

§ 3508. Definitions

For purposes of this chapter—

(1) the term "agricultural land" means any land located in one or more States and used

for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign government" means any government other than the Federal Government or any government of a State or a political subdivision of a State;

(3) the term "foreign person" means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.];

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 95-460, § 9, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in par. (3)(A)(iii), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 67—IMPLEMENTATION OF INTERNATIONAL SUGAR AGREEMENT, 1977

Sec.

3601. Definitions.

3602. Implementation of Agreement.

3603. Delegation of powers and duties.

3604. Criminal offenses.

3605, 3606. Repealed.

§ 3601. Definitions

For purposes of this chapter—

(1) The term "Agreement" means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

(3) The term "entry" means entry, or withdrawal from warehouse, for consumption in the customs territory of the United States.

(Pub. L. 96-236, § 1, Apr. 22, 1980, 94 Stat. 336.)

§ 3602. Implementation of Agreement

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1985, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

(Pub. L. 96-236, § 2, Apr. 22, 1980, 94 Stat. 336; Pub. L. 97-446, title I, § 153, Jan. 12, 1983, 96 Stat. 2344.)

AMENDMENTS

1983—Pub. L. 97-446 substituted "1985" for "1983".

ELIMINATION OF SUGAR QUOTA ALLOCATION OF PANAMA

Pub. L. 101-167, title V, § 562, Nov. 21, 1989, 103 Stat. 1241, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act [Nov. 21, 1989] during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided*, That such products may be imported after the beginning of

1/27/11

Dane Braun

#3

This form is available electronically.

AMENDED ☐

Form Approved - OMB No. 0560-0097

FSA-153

U.S. DEPARTMENT OF AGRICULTURE

(05-24-01)

Farm Service Agency

1. TYPE ACTIVITY (See Page 2) (Check one)

A. Land Holding ☐B. Land Acquisition ☐C. Land Disposition ☐D. Land Use Change To Agriculture ☐E. Land Use Change To Non-Agriculture ☐

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT REPORT

NOTE: Read Instructions on Page 2 Before Filing in Any Data Below. If Additional Space is Needed, Use Page 2

ITEM		OFFICE USE ONLY	ITEM		CHECK
2. Tract Location and Description			5. Type of Interest Held in the Agricultural Land (Check One)		
A. LEGAL DESCRIPTION OR FSA TRACT NUMBER			A. Fee Interest (ownership) Whole		
			B. Fee Interest (ownership) Partial WHAT PERCENT %		
			C. Life Estate		
B. COUNTY OR PARISH		C. NO. OF ACRES	D. Trust Beneficiary		
D. STATE			E. Purchase Contract		
			F. Other (explain)		
3. Owner of Tract (in Item 2A) (See Page 2)			6. How was this Tract Acquired or Transferred?		CHECK
A. NAME			A. Cash Transaction		
			B. Credit or Installment Transaction		
B. TAX ID NO. (Ten digits)			C. Trade		
			D. Gift or Inheritance		
C. LEGAL ADDRESS (Street, City, State/Province, Country)			E. Foreclosure		
			F. Other (explain)		
D. Type of Owner (if checked, skip Items D2 and D3)		CHECK	7. Value of Agricultural Land:		
1. Individual (including husband/wife). Indicate citizenship of husband and wife, if applicable.			A. Purchase Price of Land or if a land disposition, the original price paid by seller \$		
a. Citizenship of Individual			B. Non-Purchase, Estimated Value at the Time of Acquisition \$		
2. Government (name of country)			C. What is the estimated current value or if a land disposition, the selling price of the tract of land? \$		
3. Organization		CHECK	D. How much of purchase price in Item 7A remains to be paid? \$		
a. Type			8. Date of Acquisition or Transfer (See Page 2) MONTH DAY YEAR		
1) Corporation			9. Current Land Use (Usual use of land. For idle land, report as Other Agriculture.) Report in Whole Numbers ACRES		
2) Partnership			A. Crop		
3) Estate			B. Pasture		
4) Trust			C. Forest or Timber		
5) Institution			D. Other Agriculture		
6) Association			E. Non-Agriculture		
7) Other			F. Total (Should equal Item 2C)		
b. Gov't. or country under whose law the organization is created			10. Intended Use as of This Date. (Check One or More or type "N/A" if Item 1C above is marked)		CHECK
c. Principal place of business (for organizations only)			A. No Change		
d. List on separate sheet, the Name, Address and Country of all foreign persons who individually or in the aggregate hold significant interest or substantial control 1/ in the person owning the land.			B. Other Agriculture		
E. Complete only if Item 1C, Land Disposition, is checked			C. Non-Agriculture		
1. NAME OF PERSON RECEIVING TRACT			11. Relationship of Owner to Producer (If not applicable, for Items 11A through 11B, type "N/A"). Check one or more or type "N/A" if Item 1C above is marked.		
2. ADDRESS (Street, City, State/Province, Country)			A. Producer is:		
3. CITIZENSHIP USA <input type="checkbox"/> FOREIGN <input type="checkbox"/> UNKNOWN <input type="checkbox"/>			1. Owner		
4. Representative of Foreign Person (completing form, if applicable)			2. Manager		
A. NAME			3. Tenant or sharecropper (Item 11B must be completed)		
B. ADDRESS (Street, State, Country)			B. Rental agreement is: (Not applicable if Item 1C above is marked)		
C. TELEPHONE NO. (Area Code)			1. A crop share		
D. Relationship of Representative to Foreign Person:		CHECK	2. Cash or fixed rent		
1. Attorney			12. The Producer on This Tract is: Check one or more. If not applicable, for Items 11A through 11B, type "N/A" (Not applicable if Item 1C above is marked)		
2. Manager			A. The same person as when the tract was acquired		
Agent			B. A new person		
Other (Explain on Page 2)					
13. CERTIFICATION -I certify that the information entered in this report is complete and correct. I understand that falsification of reporting is subject to a civil penalty not to exceed 25% of the fair market value of the interest held in the tract of land.					
14. SIGNATURE (Owner or legally authorized representative)		TITLE	DATE (MM-DD-YYYY)		

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is Pub. L. 95-460. The information will be used to determine the effects of foreign persons acquiring, transferring and holding agricultural land and the effects of such activity on family farms and rural communities. Furnishing the requested information is mandatory. Failure to comply or falsification of reporting is subject to civil penalty, not to exceed 25 percent of the fair market value of the interest held in the tract on the date of the assessment of such penalty.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0097. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. **RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

DETERMINATION OF "FOREIGN PERSON" STATUS

DEFINITION: "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity.

You are a "foreign person" under the provisions of Pub. L. 95-460 and must complete the front side of this form (FSA-153) if your answer is "NO" to all the statements in Items 1, 2, and 3 below:		YES	NO
1. I AM a citizen of the United States.			
2. I AM a citizen of the Northern Mariana Islands or the Trust Territories of the Pacific Islands.			
3. I AM lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act.			
You are a "foreign person" under the provisions of Pub. L. 95-460 and must complete the front side of this form (FSA-153) if your answer is "YES" to any of the statements in Items 4a, 4b, and 5 below:		YES	NO
4. I AM a "person" other than an individual or government, which is created or organized under the laws of:			
a. A foreign government of which has its principal place of business located outside the United States.			
b. Any State of the United States, and in which significant interest or substantial control <u>1/</u> is held directly or indirectly by any foreign individual, government, or person.			
5. I AM a foreign government.			

GENERAL INSTRUCTIONS

Complete this form for each tract of land. Report as a tract all acreages under the same ownership in each county or parish acquired or transferred on the same date. Land in different counties or parishes and land acquired or transferred on different dates must be reported as separate tracts.

Return the original to the County Farm Service Agency (FSA) Office where the tract of land is located. Retain a copy for your records. **DO NOT SEND THIS FORM DIRECTLY TO WASHINGTON, D.C. UNLESS GRANTED PERMISSION BY THE FSA IN WASHINGTON, D.C.**

the original disclosure on FSA-153 on the tract(s) of land owned by the same person within a county or parish, each subsequent change of ownership or use must be reported by filing another FSA-153.

ITEM INSTRUCTIONS AND REPORTING DATES

ITEM 1. ONLY ONE BOX MAY BE CHECKED

If the tract of land to be listed under Item 2 on the front side of this document was:

- Owned on February 1, 1979, check **A. Land Holding** ☒ Reporting Date: This document is required to be completed and returned by August 1, 1979.

If the tract of land to be listed under Item 2 on the front side of this document was, on or after February 2, 1979:

- Acquired, check **B. Land Acquisition** ☒

- Disposed of, check **C. Land Disposition** ☒

- Changed from non-agricultural to agricultural use, check

D. Land Use Change to Agriculture ☒

- Changed from agricultural to non-agricultural, use check

E. Land Use Change to Non-Agriculture ☒

REPORTING DATE:

If any of these activities are checked in Item 1, return the completed FSA-153 within ninety (90) days from the date of the transaction.

ITEM 8. The date entered would be as follows for the activity checked in Item 1:

Box A or B - Date acquired.

Box C - Date disposed of.

Box D or E - Date land use changed.

ADDITIONAL INFORMATION (Use additional sheets if more space is needed)

significant interest or substantial control as defined in 7 CFR Part 781.2 (k).

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

COMMISSIONER
DOUG GOEHRING



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NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020



Testimony of Dane Braun, Program and Policy Analyst
North Dakota Department of Agriculture
House Bill 1367
Senate Agriculture Committee
Roosevelt Park Room
10:15 AM, March 24, 2011

Chairman Flakoll and members of the Senate Agriculture Committee, I am Dane Braun, the Program and Policy Analyst at the North Dakota Department of Agriculture (NDDA). I am here today on behalf of Agriculture Commissioner Doug Goehring in support of HB 1367, which will amend North Dakota Century Code (NDCC) §47-10.1-05 and §47-10.1-06 relating to reports of agricultural land ownership by aliens and the penalty.

The intent of the bill is to streamline the reporting process for alien ownership of agricultural land. By law, the NDDA receives two sets of reports, one from the United States Department of Agriculture on purchases and transfers of agricultural land by aliens, and the second by alien owners of land who acquired their land prior to July 1, 1979, and prohibited from purchasing additional agricultural land. The former is more than sufficient to maintain the intent of the law and the latter has been inconsistent in reporting and would be removed by this bill.

Section 1 of the bill removes the State reporting requirement for foreign agricultural landowners who purchased their land prior to July 1, 1979 and prohibited from purchasing additional agricultural land. Instead, the agriculture commissioner is to monitor reports transmitted to the commissioner pursuant to the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 et seq.).

Under Title 7, §3501 through §3508 of the United States Code (U.S.C.), any foreign person who

acquires or transfers any interest in agricultural land must submit a report to the United States Secretary of Agriculture. The report includes the purchaser's legal name, address, and citizenship, along with the legal description, acreage, and purchase price of the agricultural land. The Secretary of Agriculture may investigate and assess a civil penalty on individuals who fail to submit a report or falsify their report. Every six-month period the Secretary of Agriculture shall transmit to each State department of agriculture a copy of each report that was submitted to the Secretary in that six-month period for agricultural land located in such State.

Section 2 of the bill amends §47-10.1-06 of the NDCC relating to the penalty section. This narrows the scope of the penalty from all sections of Chapter 47-10.1 to only the section relating to restrictions of acquisition of agricultural land by aliens (§47-10.1-02). We have been advised by our legal counsel that the penalty should only relate to the restriction on acquisition section of the chapter and not the definition, enforcement, and reports section.

Chairman Flakoll and committee members, Commissioner Goehring urges a "do pass" on HB 1367. I would be happy to answer any questions you may have.

Thank you.

FSA-153

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

(4-01)

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT REPORT

NOTE: Read Instructions on Page 2 Before Filing in Any Data Below. If Additional Space is Needed, Use Page 2

1. TYPE ACTIVITY (See Page 2) (Check one)

- A. Land Holding ☐ B. Land Acquisition ☐ C. Land Disposition ☐
D. Land Use Change To Agriculture ☐ E. Land Use Change To Non-Agriculture ☐

ITEM		OFFICE USE ONLY	ITEM		CHECK
2. Tract Location and Description			5. Type of Interest Held in the Agricultural Land (Check One)		
A. LEGAL DESCRIPTION OR FSA TRACT NUMBER			A. Fee Interest (ownership) Whole		
			B. Fee Interest (ownership) Partial WHAT PERCENT %		
			C. Life Estate		
			D. Trust Beneficiary		
B. COUNTY OR PARISH			E. Purchase Contract		
C. NO. OF ACRES			F. Other (explain)		
D. STATE					
3. Owner of Tract (in Item 2A) (See Page 2)			6. How was this Tract Acquired or Transferred?		
A. NAME			A. Cash Transaction		
			B. Credit or Installment Transaction		
B. TAX ID NO. (Ten digits)			C. Trade		
C. LEGAL ADDRESS (Street, City, State/Province, Country)			D. Gift or Inheritance		
			E. Foreclosure		
			F. Other (explain)		
D. Type of Owner (if checked, skip Items D2 and D3)			7. Value of Agricultural Land:		
1. Individual (including husband/wife). Indicate citizenship of husband and wife, if applicable.			A. Purchase Price of Land or if a land disposition, the original price paid by seller \$		
a. Citizenship of Individual			B. Non-Purchase, Estimated Value at the Time of Acquisition \$		
2. Government (name of country)			C. What is the estimated current value or if a land disposition, the selling price of the tract of land? \$		
3. Organization			D. How much of purchase price in Item 7A remains to be paid? \$		
a. Type			8. Date of Acquisition or Transfer (See Page 2) MONTH DAY YEAR		
1) Corporation			9. Current Land Use (Usual use of land. For idle land, report as Other Agriculture.) Report in Whole Numbers ACRES		
2) Partnership			A. Crop		
3) Estate			B. Pasture		
4) Trust			C. Forest or Timber		
5) Institution			D. Other Agriculture		
6) Association			E. Non-Agriculture		
7) Other			F. Total (Should equal Item 2C)		
b. Gov't. or country under whose law the organization is created					
c. Principal place of business (for organizations only)					
d. List on separate sheet, the Name, Address and Country of all foreign persons who individually or in the aggregate hold significant interest or substantial control 1/ in the person owning the land.					
E. Complete only if Item 1C, Land Disposition, is checked			10. Intended Use as of This Date. (Check One or More or type "N/A" if Item 1C above is marked)		
1. NAME OF PERSON RECEIVING TRACT			A. No Change		
2. ADDRESS (Street, City, State/Province, Country)			B. Other Agriculture		
			C. Non-Agriculture		
3. CITIZENSHIP USA <input type="checkbox"/> FOREIGN <input type="checkbox"/> UNKNOWN <input type="checkbox"/>			11. Relationship of Owner to Producer (If not applicable, for Items 11A through 11B, type "N/A"). Check one or more or type "N/A" if Item 1C above is marked.		
4. Representative of Foreign Person (completing form, if applicable)			A. Producer is:		
A. NAME			1. Owner		
B. ADDRESS (Street, State, Country)			2. Manager		
C. TELEPHONE NO. (Area Code)			3. Tenant or sharecropper (Item 11B must be completed)		
D. Relationship of Representative to Foreign Person:			B. Rental agreement is: (Not applicable if Item 1C above is marked)		
1. Attorney			1. A crop share		
2. Manager			2. Cash or fixed rent		
3. Agent			12. The Producer on This Tract is: Check one or more. If not applicable, for Items 11A through 11B, type "N/A" (Not applicable if Item 1C above is marked)		
4. Other (Explain on Page 2)			A. The same person as when the tract was acquired		
13. CERTIFICATION -I certify that the information entered in this report is complete and correct. I understand that falsification of reporting is subject to a civil penalty not to exceed 25% of the fair market value of the interest held in the tract of land.			B. A new person		
14. SIGNATURE (Owner or legally authorized representative)			TITLE		
			DATE (MM-DD-YYYY)		

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is Pub. L. 95-460. The information will be used to determine the effects of foreign persons acquiring, transferring and holding agricultural land and the effects of such activity on family farms and rural communities. Furnishing the requested information is mandatory. Failure to comply or falsification of reporting is subject to civil penalty, not to exceed 25 percent of the fair market value of the interest held in the tract on the date of the assessment of such penalty.

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DETERMINATION OF "FOREIGN PERSON" STATUS

DEFINITION: "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity.

You are a "foreign person" under the provisions of Pub. L. 95-460 and must complete the front side of this form (FSA-153) if your answer is "NO" to all the statements in Items 1, 2, and 3 below:		YES	NO
1. I AM a citizen of the United States.			
2. I AM a citizen of the Northern Mariana Islands or the Trust Territories of the Pacific Islands.			
3. I AM lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act.			
You are a "foreign person" under the provisions of Pub. L. 95-460 and must complete the front side of this form (FSA-153) if your answer is "YES" to any of the statements in Items 4a, 4b, and 5 below:		YES	NO
4. I AM a "person" other than an individual or government, which is created or organized under the laws of:			
a. A foreign government of which has its principal place of business located outside the United States.			
b. Any State of the United States, and in which significant interest or substantial control ^{1/} is held directly or indirectly by any foreign individual, government, or person.			
5. I AM a foreign government.			

GENERAL INSTRUCTIONS

Complete this form for each tract of land. Report as a tract all acreages under the same ownership in each county or parish acquired or transferred on the same date. Land in different counties or parishes and land acquired or transferred on different dates must be reported as separate tracts.

Return the original to the County Farm Service Agency (FSA) Office where the tract of land is located. Retain a copy for your records. **DO NOT SEND THIS FORM DIRECTLY TO WASHINGTON, D.C. UNLESS GRANTED PERMISSION BY THE FSA IN WASHINGTON, D.C.**

After the original disclosure on FSA-153 on the tract(s) of land owned by the same person within a county or parish, each subsequent change of ownership or use must be reported by filing another FSA-153.

ITEM INSTRUCTIONS AND REPORTING DATES

ITEM 1. ONLY ONE BOX MAY BE CHECKED

If the tract of land to be listed under Item 2 on the front side of this document was:

- Owned on February 1, 1979, check **A. Land Holding** ☒ Reporting Date: This document is required to be completed and returned by August 1, 1979.

If the tract of land to be listed under Item 2 on the front side of this document was, on or after February 2, 1979:

- Acquired, check **B. Land Acquisition** ☒

- Disposed of, check **C. Land Disposition** ☒

- Changed from non-agricultural to agricultural use, check

D. Land Use Change to Agriculture ☒

- Changed from agricultural to non-agricultural, use check

E. Land Use Change to Non-Agriculture ☒

REPORTING DATE:

If any of these activities are checked in Item 1, return the completed FSA-153 within ninety (90) days from the date of the transaction.

ITEM 8. The date entered would be as follows for the activity checked in Item 1:

Box A or B - Date acquired.

Box C - Date disposed of.

Box D or E - Date land use changed.

ADDITIONAL INFORMATION (Use additional sheets if more space is needed)

^{1/} Significant interest or substantial control as defined in 7 CFR Part 781.2 (k).

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

tive administration of this chapter or to determine whether any person subject to the provisions of this chapter has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

(Pub. L. 95-113, title XVII, § 1713, Sept. 29, 1977, 91 Stat. 1039.)

§ 3413. Certification of organizations

The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 3403(a) of this title and to participate in the making of nominations under section 3405(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

- (a) geographic territory covered by the organization's active membership,
- (b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,
- (c) evidence of stability and permanency of the organization,
- (d) sources from which the organization's operating funds are derived,
- (e) functions of the organization, and
- (f) the organization's ability and willingness to further the aims and objectives of this title:

Provided, That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: *Provided further*, That the primary consideration in determining the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this chapter.

(Pub. L. 95-113, title XVII, § 1714, Sept. 29, 1977, 91 Stat. 1039.)

§ 3414. Other programs relating to wheat or wheat food research or nutrition education

Nothing in this chapter shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

(Pub. L. 95-113, title XVII, § 1715, Sept. 29, 1977, 91 Stat. 1040.)

§ 3415. Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 95-113, title XVII, § 1716, Sept. 29, 1977, 91 Stat. 1040.)

§ 3416. Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 95-113, title XVII, § 1717, Sept. 29, 1977, 91 Stat. 1040.)

§ 3417. Authorization of appropriations

There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 95-113, title XVII, § 1719, Sept. 29, 1977, 91 Stat. 1040.)

CHAPTER 66—AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE

Sec.
3501. Reporting requirements.

Sec.	
3502.	Civil penalty.
3503.	Investigative actions.
3504.	Repealed.
3505.	Reports to the States.
3506.	Public inspection.
3507.	Regulations.
3508.	Definitions.

§ 3501. Reporting requirements

(a) Acquisitions or transfers of certain agricultural land interests by foreign persons

Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

- (1) the legal name and the address of such foreign person;
- (2) in any case in which such foreign person is an individual, the citizenship of such foreign person;
- (3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;
- (4) the type of interest in agricultural land which such foreign person acquired or transferred;
- (5) the legal description and acreage of such agricultural land;
- (6) the purchase price paid for, or any other consideration given for, such interest;
- (7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—
 - (A) in any case in which such transferee is an individual, the citizenship of such transferee; and
 - (B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;
- (8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and
- (9) such other information as the Secretary may require by regulation.

(b) Agricultural land interests presently held by foreign persons

Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

- (1) the legal name and the address of such foreign person;
- (2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Change in foreign person status of interest holders

Any person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Conversion of land to agricultural uses

Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) Additional reports by foreign persons other than individuals or governments

With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) Persons holding interests under subsection (e)

With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may require such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principle¹ place of business of such holder.

(Pub. L. 95-460, § 2, Oct. 14, 1978, 92 Stat. 1263.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subssecs. (b) to (d), see section 10(b) of Pub. L. 95-460, set out as an Effective Date note below.

EFFECTIVE DATE

Section 10 of Pub. L. 95-460 provided that:

“(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall become effective on the date of the enactment of this Act [Oct. 14, 1978].

“(b) Section 2 [section 3501 of this title] shall become effective on the date on which regulations prescribed by the Secretary under section 8 [section 3507 of this title] become effective.”

SHORT TITLE

Section 1 of Pub. L. 95-460 provided that: “This Act [enacting this chapter] may be cited as the ‘Agricultural Foreign Investment Disclosure Act of 1978’.”

§ 3502. Civil penalty

(a) If the Secretary determines that a person—

(1) has failed to submit a report in accordance with the provisions of section 3501 of this title, or

(2) has knowingly submitted a report under section 3501 of this title—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false,

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

¹ So in original. Probably should be “principal”.

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary determines to be appropriate to carry out the purposes of this chapter, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

(Pub. L. 95-460, § 3, Oct. 14, 1978, 92 Stat. 1265.)

§ 3503. Investigative actions

The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this chapter and to determine whether the information contained in any report submitted under section 3501 of this title accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section.

(Pub. L. 95-460, § 4, Oct. 14, 1978, 92 Stat. 1265.)

§ 3504. Repealed. Pub. L. 105-362, title I, § 101(f), Nov. 10, 1998, 112 Stat. 3281

Section, Pub. L. 95-460, § 5, Oct. 14, 1978, 92 Stat. 1265; Pub. L. 104-66, title I, § 1012(g), Dec. 21, 1995, 109 Stat. 712, provided for reports to Congress and the President.

§ 3505. Reports to the States

Not later than 30 days after the end of each 6-month period beginning after the effective date of section 3501 of this title, the Secretary shall transmit to each State department of agriculture, or such other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 3501 of this title during such 6-month period and which involved agricultural land located in such State.

(Pub. L. 95-460, § 6, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

For the effective date of section 3501 of this title, referred to in text, see section 10(b) of Pub. L. 95-460, set out as an Effective Date note under section 3501 of this title.

§ 3506. Public inspection

Any report submitted to the Secretary under section 3501 of this title shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

(Pub. L. 95-460, § 7, Oct. 14, 1978, 92 Stat. 1266.)

§ 3507. Regulations

Not later than 90 days after October 14, 1978, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this chapter.

(Pub. L. 95-460, § 8, Oct. 14, 1978, 92 Stat. 1266.)

§ 3508. Definitions

For purposes of this chapter—

(1) the term “agricultural land” means any land located in one or more States and used

for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign government" means any government other than the Federal Government or any government of a State or a political subdivision of a State;

(3) the term "foreign person" means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.];

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 95-460, § 9, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in par. (3)(A)(iii), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 67—IMPLEMENTATION OF INTERNATIONAL SUGAR AGREEMENT, 1977

Sec.

Definitions.

3601. Implementation of Agreement.

3602. Delegation of powers and duties.

3603. Criminal offenses.

3604. Repealed.

§ 3601. Definitions

For purposes of this chapter—

(1) The term "Agreement" means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

(3) The term "entry" means entry, or withdrawal from warehouse, for consumption in the customs territory of the United States.

(Pub. L. 96-236, § 1, Apr. 22, 1980, 94 Stat. 336.)

§ 3602. Implementation of Agreement

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1985, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

(Pub. L. 96-236, § 2, Apr. 22, 1980, 94 Stat. 336; Pub. L. 97-446, title I, § 153, Jan. 12, 1983, 96 Stat. 2344.)

AMENDMENTS

1983—Pub. L. 97-446 substituted "1985" for "1983".

ELIMINATION OF SUGAR QUOTA ALLOCATION OF PANAMA

Pub. L. 101-167, title V, § 562, Nov. 21, 1989, 103 Stat. 1241, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act [Nov. 21, 1989] during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided*, That such products may be imported after the beginning of