

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1135

Introduced by

Representatives Klemin, Beltz, Motschenbacher, Thomas

Senators Dwyer, Luick, Myrdal

1 A BILL for an Act to amend and reenact sections 47-10.1-01 and 47-10.1-02 of the North
2 Dakota Century Code, relating to exceptions to the acquisition of agricultural land by foreign
3 governments.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 47-10.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **47-10.1-01. Definitions.**

8 In this chapter, unless the context or subject matter otherwise requires:

- 9 1. "Agricultural land" means land capable of use in the production of agricultural crops,
10 livestock or livestock products, poultry or poultry products, milk or dairy products, or
11 fruit and other horticultural products but does not include any land zoned by a local
12 governmental unit for a use other than, and nonconforming with, agricultural use, but
13 does not include any oil, gas, coal, or other minerals underlying the land, any interest
14 in minerals, separate from the surface, whether acquired by lease or otherwise, or any
15 easements or tracts of land acquired in connection with the extraction, refining,
16 processing, or transportation of minerals.
- 17 2. "Controlling interest" means:
- 18 a. Possession of fifty one percent or more of the ownership interests in an entity; or
19 b. A percentage ownership interest in an entity of less than fifty-one percent, if the
20 foreign government actually directs the business and affairs of the entity without
21 the requirement or consent of any other party.
- 22 3. "Foreign government" means a government or the state-controlled enterprise of a
23 foreign government. The term does not include the government of the United States or

- 1 its states, territories, or possessions or the government of Canada or its provinces or
2 territories.
- 3 4. "Foreign governmental interest in agricultural land" includes the purchase, acquisition,
4 or possession of any absolute or qualified ownership of land by a foreign government,
5 except does not include a leasehold interest.
- 6 5. "Interest in agricultural land" includes any leasehold interest.
- 7 6. "State-controlled enterprise" means a business enterprise, however denominated, in
8 which a foreign government has a controlling interest.

9 **SECTION 2. AMENDMENT.** Section 47-10.1-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **47-10.1-02. Restriction on acquisition - Exceptions.**

- 12 1. An individual who is not a citizen of the United States, a citizen of Canada, or a
13 permanent resident alien of the United States may not acquire directly or indirectly any
14 interest in agricultural land unless:
- 15 a. The individual is an alien entitled to enter the United States under the provisions
16 of a treaty of commerce and navigation between the United States and the
17 foreign state of which the individual is a national, solely to develop and direct the
18 operations of an enterprise in which the individual has invested or to direct the
19 operations of an enterprise in which the individual is actively in the process of
20 investing a substantial amount of capital;
- 21 b. The individual resides in this state for at least ten months out of every year;
- 22 c. The individual actively participates in the operation of the agricultural land;
- 23 d. The agricultural landholding does not exceed six hundred forty acres [258.99
24 hectares]; and
- 25 e. The agricultural landholding includes a dairy operation.
- 26 2. An individual who is permitted to acquire an interest in agricultural land under
27 subsection 1 shall:
- 28 a. Notify the agriculture commissioner of any land acquisition within thirty days of
29 the acquisition; and

- 1 b. Annually provide the agriculture commissioner with a list of all addresses at
2 which the individual resided during the previous year and the dates during which
3 the individual resided at each address.
- 4 3. If an individual ceases to meet the exceptions provided for in subsection 1, the
5 individual shall dispose of the agricultural land within twenty-four months.
- 6 4. A partnership, limited partnership, limited liability company, trustee, or other business
7 entity may not, directly or indirectly, acquire or otherwise obtain any interest, whether
8 legal, beneficial, or otherwise, in any title to agricultural land unless the ultimate
9 beneficial interest of the entity is held directly or indirectly by citizens of the United
10 States or permanent resident aliens of the United States.
- 11 5. This section does not apply to agricultural land that may be acquired by devise,
12 inheritance, as security for indebtedness, by process of law in the collection of debts,
13 or by any procedure for the enforcement of a lien or claim thereon, whether created by
14 mortgage or otherwise; provided, that all agricultural land acquired in the collection of
15 debts or by the enforcement of a lien or claim must be disposed of within three years
16 after acquiring ownership if the acquisition would otherwise violate this section.
- 17 6. This section does not apply to a foreign corporation or a foreign limited liability
18 company which acquires agricultural land for use as an industrial site when
19 construction contracts are entered into by the corporation or limited liability company
20 within one hundred fifty days after acquisition of the land; provided, that this exception
21 applies only to so much agricultural land as is reasonably necessary for industrial
22 purposes. A foreign corporation or a foreign limited liability company which owns
23 agricultural land for industrial purposes but which discontinues using the land for
24 industrial purposes shall dispose of the land as provided by chapter 10-06.1. A foreign
25 corporation or foreign limited liability company shall dispose of agricultural land
26 acquired for industrial purposes within one year after acquisition if construction
27 contracts are not entered into within one hundred fifty days after acquisition of the
28 land.
- 29 7. This section does not apply to citizens or subjects of a foreign country whose rights to
30 hold land are secured by treaty or to common carriers by railroad subject to the
31 jurisdiction of the interstate commerce commission.

- 1 8. Notwithstanding subsection 4 and subsection 6, after June 30, 2023, a foreign
2 government may not purchase, acquire, or hold any foreign governmental interest in
3 agricultural land in the state. This section does not apply to any interest in agricultural
4 land held by a foreign government before July 1, 2023.
- 5 9. Notwithstanding the provisions of this chapter, the prohibition on ownership of
6 agricultural land does not apply to the following acquisition of agricultural land or an
7 interest in agricultural land by a state-controlled enterprise if the agricultural land:
- 8 a. Agricultural land that is used for agricultural research and development, or
9 experimental purposes, including testing, developing, or producing seeds or
10 plants for sale or resale to farmers as seed stock, crop production inputs,
11 including seed, fertilizer, pesticides, soil amendments, plants, or biologicals; and
- 12 b. The acquisition of agricultural land or an interest in agricultural land that is
13 located within this state by a foreign business entity that is not more than three
14 hundred twenty acres [129.5 hectares] Does not exceed one hundred sixty acres
15 [64.75 hectares].