

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3125

By: Williams

AS INTRODUCED

An Act relating to foreign ownership of property; defining terms; prohibiting real property ownership by certain parties; providing certain exemptions; requiring divestment of violating property; requiring Attorney General to bring suit for violating; providing for judicial foreclosure of property; providing certain documents to be recorded in the county records office; providing for felony punishment and fines; providing affirmative defense to prosecution; providing when title to real property is not invalid or subject to divestiture; prohibiting agricultural land ownership by certain parties; providing certain exemptions; requiring divestment of violating property; requiring the Office of Agricultural Intelligence upon discovery of a violation to report such violation to the Attorney General; providing that the Attorney General may issue certain subpoenas; providing that the Attorney General upon a certain determination shall commence legal actions; providing for judicial foreclosure of property; providing certain documents to be recorded in the county records office; providing when title to agricultural land is not invalid or subject to divestiture; providing for felony punishment and fines; providing affirmative defense to prosecution; requiring inclusion of certain affidavit with recording of a deed; directing Attorney General to promulgate certain affidavit forms; creating within the Oklahoma Department of Agriculture, Food, and Forestry the Office of Agricultural Intelligence; providing authorized duties; proving the office shall operate under the direction of the Secretary of the Oklahoma Department of Agriculture, Food, and Forestry; providing for codification; and providing an effective date.

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3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

4 SECTION 1. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 128 of Title 60, unless there is  
6 created a duplication in numbering, reads as follows:

7 As used in this act:

8 1. "Agricultural land" means any land which is outside the  
9 corporate limits of a municipality and is:

- 10 a. used for forestry production, including without  
11 limitation, land exceeding ten (10) acres in which ten  
12 percent (10%) of the land is stocked by trees of any  
13 size, including land that formerly had trees of any  
14 size covering the land that will be naturally or  
15 artificially regenerated, or  
16 b. currently used for, or, if currently idle, land last  
17 used within the past five (5) years, for farming,  
18 ranching, or timber production, except land not  
19 exceeding ten (10) acres in the aggregate, if the  
20 annual gross receipts from the sale of the farm,  
21 ranch, or timber products produced on the land do not  
22 exceed One Thousand Dollars (\$1,000.00).

1 This does not include oil, gas, and all other minerals,  
2 including coal, lignite, brine, and all minerals known and  
3 recognized as commercial minerals underlying the land;

4 2. "Controlling interest" means an ownership interest of fifty  
5 percent (50%) or more, in the aggregate;

6 3. "Foreign government" means any government other than the  
7 federal government or any government of a state or a political  
8 subdivision of a state;

9 4. "Interest in agricultural land" means all direct interest  
10 acquired, transferred, or held in agricultural land, including  
11 without limitation, a lease of agricultural land:

12 a. for a term of one (1) year or longer, or

13 b. renewable by option for terms which, if the options  
14 were all exercised, would total one (1) year;

15 5. "Party" means any individual, corporation, company,  
16 association, firm, partnership, society, joint-stock company, trust,  
17 estate, or any other legal entity;

18 6. "Prohibited foreign party" means:

19 a. a citizen or resident of a country subject to  
20 International Traffic in Arms Regulations, 22 C.F.R.,  
21 Section 126.1,

22 b. a foreign government formed within a country subject  
23 to International Traffic in Arms Regulations, 22  
24 C.F.R., Section 126.1,  
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- 1 c. a party other than an individual or a government, that  
2 is created or organized under the laws of a foreign  
3 government within a country subject to International  
4 Traffic in Arms Regulations, 22 C.F.R., Section 126.1,
- 5 d. any party other than an individual or government:
- 6 (1) that is created or organized under the laws of  
7 any state, and
- 8 (2) in which a significant interest or substantial  
9 control is directly or indirectly held or is  
10 capable of being exercised by:
- 11 (a) an individual referred to in subparagraph a  
12 of this paragraph,
- 13 (b) a foreign government referred to in  
14 subparagraph b of this paragraph,
- 15 (c) a party referred to in subparagraph c of  
16 this paragraph, or
- 17 (d) a combination of the individuals, parties,  
18 or governments referred to in this division,
- 19 e. an Entity of Particular Concern designated by the  
20 United States Department of State, or
- 21 f. an agent, trustee, or other fiduciary of a person or  
22 entity enumerated in subparagraphs a through e of this  
23 paragraph;  
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1       7. "Prohibited foreign-party-controlled business" means a  
2 corporation, company, association, firm, partnership, society,  
3 joint-stock company, trust, estate, or other legal entity whose  
4 controlling interest is owned by a prohibited foreign party;

5       8. "Real property" means all land or property that is not  
6 agricultural land;

7       9. "Residence" means a person's principal dwelling place where  
8 the person intends to remain permanently for an indefinite period of  
9 time;

10      10. "Resident alien" means a person who:

11          a. is not a citizen of the United States, and

12          b. is a resident of a:

13              (1) state of the United States,

14              (2) territory of the United States,

15              (3) trusteeship of the United States, or

16              (4) protectorate of the United States;

17      11. "Significant interest" or "substantial control" means:

18          a. an interest of thirty-three percent (33%) or more held  
19 by:

20              (1) a party referred to in subparagraph d of  
21 paragraph 6 of this section,

22              (2) an individual referred to in subparagraph a of  
23 paragraph 6 of this section,  
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- 1 (3) a party referred to in subparagraph c of  
2 paragraph 6 of this section, or  
3 (4) a single government referred to in subparagraph b  
4 of paragraph 6 of this section;

5 b. an interest of thirty-three percent (33%) or more held  
6 whenever the parties, individuals, or governments  
7 referred to in paragraph 6 of this section are acting  
8 in concert with respect to the interest even though no  
9 single individual, party, or government holds an  
10 interest of thirty-three percent (33%) or more, or

11 c. an interest of fifty percent (50%) or more, in the  
12 aggregate, held by parties, individuals, or  
13 governments referred to in paragraph 6 of this section  
14 even though the individuals, parties, or foreign  
15 governments may not be acting in concert.

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 128.1 of Title 60, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. 1. A prohibited foreign party or a prohibited foreign-  
20 party-controlled business shall not acquire by grant, purchase,  
21 devise, descent, or otherwise any interest in real property in this  
22 state.  
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1        2. A party may not hold real property as an agent, trustee, or  
2 other fiduciary for a prohibited foreign party or prohibited  
3 foreign-party-controlled business in violation of this section.

4        B. A prohibited foreign party or a prohibited foreign-party-  
5 controlled business entity in violation of this section shall have  
6 two (2) years to divest of the real property.

7        C. If a prohibited foreign party or a prohibited foreign-party-  
8 controlled business entity does not divest the real property as  
9 required by subsection B of this section, the Attorney General shall  
10 commence an action in the district court within the jurisdiction of  
11 the real property.

12        1. If the ownership of the real property is determined by the  
13 district court to be in violation of this section, the court shall  
14 order that the real property be sold through judicial foreclosure.

15        2. Proceeds of the sale shall be disbursed to lienholders, in  
16 the order of priority, except for liens which, under the terms of  
17 the sale, are to remain on the real property.

18        3. The Attorney General shall promptly record a copy of the  
19 following in the county clerk's office of the county where the real  
20 property is located:

- 21            a. upon commencement, notice of the pendency of an action  
22                brought under this subsection, and  
23            b. the order for the sale of the real property under  
24                paragraph 1 of this subsection.

1 D. A prohibited foreign party or a prohibited foreign-party-  
2 controlled business entity shall, upon conviction, be guilty of a  
3 felony punishable by not more than two (2) years' imprisonment or a  
4 fine of Fifteen Thousand Dollars (\$15,000.00), or both.

5 E. It is an affirmative defense to prosecution under this  
6 section that a prohibited foreign party or prohibited foreign-party-  
7 controlled business entity is a resident alien of the State of  
8 Oklahoma.

9 F. Title to real property is not invalid or subject to  
10 divestiture due to a violation of this section by:

- 11 1. Any former owner; or  
12 2. Another person holding or owning a former interest in the  
13 real property.

14 G. Individuals not subject to this section shall be required to  
15 determine or inquire into whether another person is or may be  
16 subject to this section.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 128.2 of Title 60, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. 1. Except as provided in Section 4 of this act, a  
21 prohibited foreign party or a prohibited foreign-party-controlled  
22 business entity shall not acquire by grant, purchase, devise,  
23 descent, or otherwise any interest in agricultural land in this  
24 state regardless of whether the prohibited foreign party or a  
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1 prohibited foreign-party-controlled business entity intends to use  
2 the agricultural land for nonfarming purposes.

3 2. A party may not hold agricultural land as an agent, trustee,  
4 or other fiduciary for a prohibited foreign party in violation of  
5 this act.

6 B. A prohibited foreign party or a prohibited foreign-party-  
7 controlled business entity that acquires agricultural land in  
8 violation of this section remains in violation as long as the  
9 prohibited foreign party or a prohibited foreign-party-controlled  
10 business entity holds an interest in the agricultural land.

11 SECTION 4. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 128.3 of Title 60, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. A prohibited foreign party or a prohibited foreign-party-  
15 controlled business entity, who is a resident alien of the United  
16 States, shall have the right to acquire and hold agricultural land  
17 in the state upon the same terms as a citizen of the United States  
18 during the continuance of his or her residence in the State of  
19 Oklahoma.

20 B. 1. If a prohibited foreign party or a prohibited foreign-  
21 party-controlled business entity is no longer a resident alien under  
22 subsection A of this section, he or she shall have two (2) years to  
23 divest of the agricultural land.  
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1        2. If the prohibited foreign party or a prohibited foreign-  
2 party-controlled business entity does not divest of the agricultural  
3 land as required by paragraph 1 of this subsection, the Attorney  
4 General shall commence an action in district court within the  
5 jurisdiction of the agricultural land.

6        3. If the ownership of the agricultural land is held in  
7 violation of this section, the district court shall order that the  
8 agricultural land be sold through judicial foreclosure.

9        C. 1. When the Office of Agricultural Intelligence determines  
10 a prohibited foreign party or a prohibited foreign-party-controlled  
11 business entity has acquired agricultural land in Oklahoma in  
12 violation of this act, the Office shall report the violation to the  
13 Attorney General.

14        2. Upon receiving notice under paragraph 1 of this subsection  
15 or upon receipt of information that leads the Attorney General to  
16 believe that a violation of this act may exist, the Attorney General  
17 may issue subpoenas requiring the:

- 18            a. appearance of witnesses,
- 19            b. production of relevant records, and
- 20            c. giving of relevant testimony.

21        3. If, as a result of the investigation under paragraph 2 of  
22 this subsection, the Attorney General concludes that a violation of  
23 this act has occurred, the Attorney General shall commence an action  
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1 in the district court within the jurisdiction of the agricultural  
2 land.

3 4. If the ownership of the agricultural land is held in  
4 violation of this act, the district court shall order that the  
5 agricultural land be sold through judicial foreclosure.

6 D. 1. The proceeds of the sale of agricultural land by  
7 judicial foreclosure authorized under this section shall be  
8 disbursed to lienholders, in the order of priority, except for liens  
9 which under the terms of the sale are to remain on the agricultural  
10 land.

11 2. The Attorney General shall promptly record a copy of the  
12 following in the county clerk's office where the agricultural land  
13 is located:

- 14 a. upon commencement, notice of the pendency of an action  
15 brought under paragraph 2 of subsection B and under  
16 paragraph 3 of subsection C of this section, and  
17 b. the order for the sale of the agricultural land under  
18 paragraph 3 of subsection B and under paragraph 4 of  
19 subsection C of this section.

20 E. Title to agricultural land is not invalid or subject to  
21 divestiture due to a violation of this act by:

- 22 1. Any former owner; or  
23 2. Another person holding or owning a former interest in the  
24 agricultural land.

1 F. No person not subject to this act shall be required to  
2 determine or inquire into whether another person is or may be  
3 subject to this act.

4 SECTION 5. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 128.4 of Title 60, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. A prohibited foreign party or prohibited foreign-party-  
8 controlled business entity owning agricultural land subsequent to  
9 the passage of this act and not listed under one of the exceptions  
10 set out in subsections A and B of Section 4 of this act shall, upon  
11 conviction, be guilty of a felony punishable by imprisonment for not  
12 more than two (2) years, or a fine of Fifteen Thousand Dollars  
13 (\$15,000.00), or by both such imprisonment and fine.

14 B. It is an affirmative defense to prosecution under this  
15 section that a prohibited foreign party or prohibited foreign-party-  
16 controlled business entity is a resident alien of the State of  
17 Oklahoma.

18 SECTION 6. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 128.5 of Title 60, unless there  
20 is created a duplication in numbering, reads as follows:

21 On or after the effective date of this act, any deed recorded  
22 with a county clerk shall include, as an exhibit to the deed, an  
23 affidavit executed by the person or entity coming into title  
24 attesting that the person, business entity, or trust is obtaining  
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1 the land in compliance with the requirements of Sections 2, 3, 4,  
2 and 5 of this act and that no funding source is being used in the  
3 sale or transfer in violation of Sections 2, 3, 4, and 5 of this act  
4 or any other state or federal law. A county clerk shall not accept  
5 and record any deed without an affidavit as required by this  
6 section. The Attorney General shall promulgate a separate affidavit  
7 form for individuals and for business entities or trusts to comply  
8 with the requirements of this section, with the exception of those  
9 deeds which the Attorney General deems necessary when promulgating  
10 the affidavit form.

11 SECTION 7. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 4101 of Title 2, unless there is  
13 created a duplication in numbering, reads as follows:

14 A. There is created within the Oklahoma Department of  
15 Agriculture, Food, and Forestry the Office of Agricultural  
16 Intelligence.

17 B. The Office of Agricultural Intelligence is authorized and  
18 directed to:

19 1. Collect and analyze information concerning the unlawful sale  
20 or possession of agricultural land by prohibited foreign parties or  
21 prohibited foreign-party-controlled business entity; and

22 2. Administer and enforce the provisions of this Act, including  
23 without limitation, the reporting of a violation of this subchapter  
24 to the Oklahoma Attorney General under Section 4 of this Act.

1 C. The Office of Agricultural Intelligence shall operate under  
2 the direction of the Secretary of the Oklahoma Department of  
3 Agriculture, Food, and Forestry.

4 SECTION 8. REPEALER 60 O.S. 2021, Sections 121, as  
5 amended by Section 1, Chapter 327, O.S.L. 2023, 122, 123, 124, 125,  
6 126, and 127 (60 O.S. Supp. 2023, Section 121), are hereby repealed.

7 SECTION 9. This act shall become effective November 1, 2024.

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