

1 AN ACT relating to the acquisition of agricultural land.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Agricultural land" has the same meaning as in 7 U.S.C. sec. 3508;*

7 *(b) "Fiduciary" has the same meaning as in KRS 131.010;*

8 *(c) "Foreign agent" has the same meaning as in 18 U.S.C. sec. 1839;*

9 *(d) "Foreign business" has the same meaning as in 26 C.F.R. sec. 301.7701-5;*

10 *(e) "Nonresident alien" has the same meaning as in 26 C.F.R. sec. 1.871-2;*

11 *and*

12 *(f) "Trustee" has the same meaning as in KRS 218A.405.*

13 *(2) Notwithstanding any other provision of law to the contrary, except as provided in*  
14 *subsections (3) to (5) of this section, on or after the effective date of this Act, a*  
15 *nonresident alien, foreign business, foreign agent, trustee, or fiduciary who has a*  
16 *legal relationship with or is legally bound to take instruction from or execute*  
17 *decisions for the government of any proscribed country referenced in 22 C.F.R.*  
18 *sec. 126.1, as amended, shall be prohibited from:*

19 *(a) The purchase, lease, or acquisition of any interest in public or private*  
20 *agricultural land located in the Commonwealth of Kentucky; and*

21 *(b) Participation in programs administered by the Department of Agriculture,*  
22 *Agricultural Development Board, and Kentucky Agricultural Finance*  
23 *Corporation.*

24 *(3) Any agricultural land purchased, leased, or acquired by a nonresident alien,*  
25 *foreign business, foreign agent, trustee, or fiduciary who has a legal relationship*  
26 *with or is legally bound to take instruction from or execute decisions for the*  
27 *government of any proscribed country referenced in 22 C.F.R. sec. 126.1, as*

1 amended, prior to the effective date of this Act may continue to own or hold the  
2 agricultural land, but shall not purchase, lease, or acquire any additional  
3 agricultural land or interest in agricultural land in this Commonwealth.

4 (4) Any entity that has a national security agreement with the Committee on Foreign  
5 Investment in the United States and continues to maintain that national security  
6 agreement may purchase, lease, or acquire a maximum of three hundred fifty  
7 (350) acres of agricultural land for the purposes of:

8 (a) Agricultural research and development; or

9 (b) Experimental purposes, including testing, development, or production of  
10 any crop production inputs for sale or resale to farmers, including but not  
11 limited to:

12 1. Seeds;

13 2. Plants;

14 3. Pesticides;

15 4. Soil amendments;

16 5. Biologicals; or

17 6. Fertilizers.

18 (5) A nonresident alien, foreign business, foreign agent, trustee, or fiduciary may  
19 own, purchase, hold, or develop agricultural land for immediate or potential  
20 nonagricultural use in an amount necessary for the conduct of its  
21 nonagricultural business operation, including the filing of any permit or  
22 application to any state or federal agency having jurisdiction over the project for  
23 permitting purposes, provided that:

24 (a) Development of the nonagricultural business operation has been completed  
25 within five (5) years from acquiring the land. Failure to develop the land  
26 within that time shall be deemed a violation of this section; and

27 (b) The agricultural land shall not be used for farming, except under lease to a

1           family farm unit, family farm corporation, or an authorized farm  
2           corporation, pending the development of the agricultural land for a  
3           nonagricultural use.

4   (6) Nothing in this section shall prohibit an existing foreign business located in the  
5           Commonwealth who has a legal relationship with, or is legally bound to take  
6           instruction from or execute decisions for, the government of any proscribed  
7           country referenced in 22 C.F.R. sec. 126.1, as amended, from purchasing,  
8           leasing, or acquiring agricultural land adjacent to the land that the foreign  
9           business owns and operates in order to expand the operation of its business.

10 (7) Nothing in this section shall exempt a nonresident alien, foreign business,  
11           foreign agent, trustee, or fiduciary who has a legal relationship with or is legally  
12           bound to take instruction from or execute decisions for the government of any  
13           proscribed country referenced in 22 C.F.R. sec. 126.1, as amended, from:

14           (a) The provisions of the Agricultural Foreign Investment Disclosure Act, 7  
15           U.S.C. sec. 3501 et seq., and its accompanying regulations at 7 C.F.R. pt.  
16           781 et seq., or any amendments thereto; and

17           (b) Filing a copy of the report required by 7 U.S.C. sec. 3501 et seq. and its  
18           accompanying regulations at 7 C.F.R. pt. 781 et seq., or amendments  
19           thereto, with the Department of Agriculture within the time period specified  
20           therein.

21 (8) The Department of Agriculture shall review any report:

22           (a) Received in accordance with subsection (7) of this section; or

23           (b) Voluntarily submitted by a county register of deeds alleging a violation of  
24           this section.

25 (9) If the Department of Agriculture has reason to believe that a violation of this  
26           section may have occurred, the department shall refer evidence of noncompliance  
27           to the Office of the Attorney General, which shall investigate the evidence for

1 violations of this section. The Office of the Attorney General may bring an action  
2 pursuant to KRS Chapter 15 to enforce the provisions of this section.

3 (10) (a) If the court finds that agricultural land has been purchased or acquired in  
4 violation of this section, then the court shall declare the agricultural land  
5 escheated to the state and order the sale of the agricultural land in the  
6 manner provided by law for the judicial foreclosure of a mortgage on real  
7 estate for default of payment. The proceeds of the sale of the agricultural  
8 land pursuant to this paragraph through judicial foreclosure shall be  
9 disbursed in the following order:

10 1. Recovery of reasonable costs of litigation by the Office of the Attorney  
11 General, as determined by the court and approved by the secretary of  
12 the Finance and Administration Cabinet;

13 2. Payment of delinquent ad valorem taxes;

14 3. Payment to mortgage and other lien holders, in the priority determined  
15 by the court; and

16 4. Deposit in the budget reserve trust fund.

17 (b) If the court finds that agricultural land has been leased in violation of this  
18 section, then the court shall rescind the lease and it shall be rendered null  
19 and void.