

# SENATE BILL NO. 865

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

3253S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 173.275, 442.566, 442.571, 442.576, and 442.591, RSMo, and to enact in lieu thereof seven new sections relating to foreign ownership of property, with an emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 173.275, 442.566, 442.571, 442.576,  
2 and 442.591, RSMo, are repealed and seven new sections enacted  
3 in lieu thereof, to be known as sections 33.860, 173.275,  
4 262.970, 442.566, 442.571, 442.576, and 442.591, to read as  
5 follows:

**33.860. 1. No state department or agency shall  
2 implement any program which confers a state public benefit  
3 on or relating to any foreign-owned property.**

**4 2. As used in this section, the term "state public  
5 benefit" shall include any grant, contract, loan, or tax  
6 credit provided by a department or agency of state  
7 government.**

173.275. 1. As used in this section, the following  
2 terms shall mean:

3 (1) "Foreign government", any government other than  
4 the government of the United States or any state or  
5 political subdivision of the United States;

6 (2) "Foreign legal entity", any legal entity created  
7 under the laws of:

8 (a) A foreign government; or

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9           (b) The United States, or any state of the United  
10 States, if a majority of the ownership of the stock of such  
11 legal entity is directly or indirectly owned, legally or  
12 beneficially, by one or more foreign governments, foreign  
13 persons, or legal entities created under the laws of a  
14 foreign government, or if a majority of the membership of  
15 any such entity is composed of foreign persons or legal  
16 entities created under the laws of a foreign government.

17 The term "foreign legal entity" shall include agents of such  
18 entities;

19           (3) "Foreign person", any individual who is not a  
20 citizen or national of the United States, or any trust  
21 territory or protectorate of the United States. The term  
22 "foreign person" shall include agents of such persons;

23           (4) "Gift", any endowment, gift, grant, contract,  
24 award, or property of any kind[;

25           (5) "Institution of higher education" or  
26 "institution", the University of Missouri, Lincoln  
27 University, the state colleges, community colleges and  
28 teachers' colleges].

29           2. [Every institution of higher education shall  
30 disclose to the department of higher education and workforce  
31 development the amount, terms, restrictions, conditions, and  
32 requirements attached to or made a part of any gift from any  
33 foreign government, foreign legal entity, or foreign person  
34 which has a value of one hundred thousand dollars or more,  
35 made to such institution of higher education in any fiscal  
36 year if any term, restriction, condition or requirement  
37 attached to or made a part of any such gift is a violation  
38 of, or would cause the institution of higher education to be  
39 in violation of, any federal or state law relating to

40 discrimination on the basis of race, creed, color, sex, age,  
41 marital status, ethnic background, or religion. If any  
42 foreign government, foreign entity, or foreign person makes  
43 more than one gift to any institution of higher education in  
44 any fiscal year of such institution, such institution shall  
45 make the report required by this subsection if the aggregate  
46 value of all gifts from any one foreign government, foreign  
47 legal entity, or foreign person is one hundred thousand  
48 dollars or more in such fiscal year.

49 3. The information to be furnished to the department  
50 of higher education and workforce development shall be  
51 forwarded to the department no later than thirty days after  
52 the final day of the fiscal year of each institution of  
53 higher education, and shall include:

54 (1) The amount of each gift and the date on which it  
55 was received by the institution;

56 (2) When a gift is conditional, a matching gift, or  
57 designated for a particular purpose, the full details of the  
58 conditions, matching provisions or designation;

59 (3) In the case of a gift by a foreign government, the  
60 name of such government;

61 (4) In the case of a gift by a foreign legal entity or  
62 foreign person, the name of the foreign country in which  
63 such foreign legal entity or foreign person is principally  
64 located or has his principal residence;

65 (5) The purpose for which the gift will be used; and

66 (6) The name of the foreign legal entity which made  
67 the gift if the gift:

68 (a) Contains conditions or restrictions regarding the  
69 control of curricula, employment or termination of faculty  
70 members, admission of students, or student fees and tuition;

71 or

72 (b) Is contingent upon the agreement of the  
73 institution to take specific public positions or actions, or  
74 to award honorary degrees.

75 4. All information disclosed and furnished to the  
76 department of higher education and workforce development  
77 under this section shall be deemed a public record under  
78 sections 610.010 to 610.030 and shall be made available by  
79 the department to the general public for inspection, review  
80 and copying during the department's normal business hours.]

81 (1) Notwithstanding any provision of law to the contrary, a  
82 public institution of higher education shall not accept any  
83 gift from a foreign government, foreign legal entity, or  
84 foreign person.

85 (2) This subsection shall not be construed to prohibit  
86 a public institution of higher education from accepting  
87 tuition payments from students from foreign countries.

262.970. 1. No alien or foreign business shall build  
2 an electricity generating facility on agricultural zoned  
3 land, as described in section 262.805, owned by such alien  
4 or foreign business in the state after August 28, 2024.

5 2. For purposes of this section "electricity  
6 generating facility" means a facility used to convert  
7 energy, including but not limited to solar and wind power,  
8 to produce electricity which consists of one or more power  
9 generating modules connected to a network of one or more  
10 connection points.

442.566. As used in sections 442.560 to 442.591,  
2 unless the context clearly requires otherwise, the following  
3 terms mean:

4 (1) "Agricultural land", any tract of land in this  
5 state consisting of more than five acres, whether inside or  
6 outside the corporate limits of any municipality, which is

7 capable, without substantial modification to the character  
8 of the land, of supporting an agricultural enterprise,  
9 including but not limited to land used for the production of  
10 agricultural crops or fruit or other horticultural products,  
11 or for the raising or feeding of animals for the production  
12 of livestock or livestock products, poultry or poultry  
13 products, or milk or dairy products. Adjacent parcels of  
14 land under the same ownership shall be deemed to be a single  
15 tract;

16 (2) "Alien", any person who is not a citizen of the  
17 United States and who is not a resident of the United States  
18 or of some state, territory, trusteeship, or protectorate of  
19 the United States;

20 (3) "Director", the director of the Missouri  
21 department of agriculture;

22 (4) "Family members" includes all persons within the  
23 ninth degree of consanguinity, or the living or surviving  
24 spouse of any person within the ninth degree of  
25 consanguinity;

26 (5) "Foreign business", any business entity whether or  
27 not incorporated, including but not limited to **companies,**  
28 **corporations, professional corporations, nonprofit**  
29 **corporations, limited liability companies,** partnerships,  
30 limited partnerships, [and] associations, **or the equivalent**  
31 **of any entity listed in this subdivision,** in which a  
32 controlling interest is owned by aliens **or organized under**  
33 **the laws of a foreign country, or both.** In determining  
34 ownership of a foreign business, legal fictions such as  
35 corporate form or trust shall be disregarded;

36 (6) "Residence", the place of general abode; the place  
37 of general abode of a person means his principal, actual

38 dwelling place in fact, where he intends to remain  
39 permanently or for an indefinite period of time at least.

442.571. 1. Except as provided in sections 442.586  
2 and 442.591, [no alien or foreign business shall acquire by  
3 grant, purchase, devise, descent or otherwise agricultural  
4 land in this state if the total aggregate alien and foreign  
5 ownership of agricultural acreage in this state exceeds one  
6 percent of the total aggregate agricultural acreage in this  
7 state. A sale or transfer of any agricultural land in this  
8 state shall be submitted to the director of the department  
9 of agriculture for review in accordance with subsection 3 of  
10 this section only if there is no completed Internal Revenue  
11 Service Form W-9 signed by the purchaser] **beginning on the**  
12 **effective date of this section, no alien, foreign business,**  
13 **or foreign government shall acquire by grant, purchase,**  
14 **devise, descent, or otherwise any agricultural land in this**  
15 **state. Any alien, foreign business, or foreign government**  
16 **who acquired any agricultural land in this state prior to**  
17 **the effective date of this section shall not grant, sell, or**  
18 **otherwise transfer such agricultural land to any other**  
19 **alien, foreign business, or foreign government on or after**  
20 **the effective date of this section.** No person may hold  
21 agricultural land as an agent, trustee, or other fiduciary  
22 for an alien [or], foreign business, **or foreign government**  
23 in violation of sections 442.560 to 442.592, provided,  
24 however, that no security interest in such agricultural land  
25 shall be divested or invalidated by such violation.

26 2. Any alien [or], foreign business, **or foreign**  
27 **government** who acquires agricultural land in violation of  
28 sections 442.560 to 442.592 remains in violation of sections  
29 442.560 to 442.592 for as long as [he or she] **the alien,**  
30 **foreign business, or foreign government** holds an interest in

31 the land, provided, however, that no security interest in  
32 such agricultural land shall be divested or invalidated by  
33 such violation.

34 3. Subject to the provisions of subsection 1 of this  
35 section, **[such] all proposed [acquisitions] transfers on or**  
36 **after the effective date of this section** by grant, purchase,  
37 devise, descent, or otherwise of **any interest in**  
38 **agricultural land held by any alien, foreign business, or**  
39 **foreign government** in this state shall be submitted **at least**  
40 **thirty calendar days prior to when such transfers of such**  
41 **agricultural land are finalized** to the department of  
42 agriculture to determine whether such **[acquisition] transfer**  
43 of agricultural land is conveyed in accordance with the **[one**  
44 **percent restriction on the total aggregate] prohibition on**  
45 alien and foreign ownership of agricultural land in this  
46 state **under this section. Such sale or transfer submitted**  
47 **for review shall be deemed a closed record under chapter 610**  
48 **until such sale is finalized.** The department shall  
49 establish by rule the requirements for submission and  
50 approval of requests under this subsection.

51 4. Any rule or portion of a rule, as that term is  
52 defined in section 536.010, that is created under the  
53 authority delegated in this section shall become effective  
54 only if it complies with and is subject to all of the  
55 provisions of chapter 536 and, if applicable, section  
56 536.028. This section and chapter 536 are nonseverable and  
57 if any of the powers vested with the general assembly  
58 pursuant to chapter 536 to review, to delay the effective  
59 date, or to disapprove and annul a rule are subsequently  
60 held unconstitutional, then the grant of rulemaking  
61 authority and any rule proposed or adopted after August 28,  
62 2014, shall be invalid and void.

442.576. 1. If the director finds that an alien [or],  
2 foreign business, **or foreign government** or an agent,  
3 trustee, or other fiduciary therefor has acquired  
4 agricultural land in Missouri [in violation of sections  
5 442.560 to 442.592] **after the effective date of this**  
6 **section**, or the land ceases to be used for nonagricultural  
7 purposes under section 442.591, he or she shall report the  
8 violation to the attorney general.

9 2. The attorney general shall institute an action in  
10 the circuit court of Cole County or the circuit court in any  
11 county in which agricultural land owned by the alien or  
12 foreign business, agent, trustee or other fiduciary, alleged  
13 to have violated sections 442.560 to 442.592, is located.

14 3. The attorney general shall file a notice of the  
15 pendency of the action with the recorder of deeds of each  
16 county in which any portion of such agricultural lands is  
17 located. If the court finds that the lands in question have  
18 been acquired in violation of sections 442.560 to 442.592,  
19 it shall enter an order so declaring and shall file a copy  
20 of the order with the recorder of deeds of each county in  
21 which any portion of the agricultural lands is located. The  
22 court shall order the owner to divest himself of the  
23 agricultural land. The owner must comply with the order  
24 within two years. The two-year limitation period shall be a  
25 covenant running with the title to the land against any  
26 alien grantee or assignee. Provided, however, an  
27 incorporated foreign business must divest itself of  
28 agricultural land within the minimum time required by  
29 Article XI, Section 5, of the Missouri Constitution. Any  
30 agricultural lands not divested within the time prescribed  
31 shall be ordered sold by the court at a public sale in the

32 manner prescribed by law for the foreclosure of a mortgage  
33 on real estate for default in payment.

442.591. The restrictions set forth in sections  
2 442.560 to 442.592 shall not apply to agricultural land or  
3 any interest therein acquired by an alien or foreign  
4 business for immediate or potential use in nonfarming  
5 purposes. An alien or foreign business may hold such  
6 agricultural land in such acreage as may be necessary to its  
7 nonfarm business operation; provided, however, that pending  
8 the development of agricultural land for nonfarm purposes,  
9 such land may not be used for farming except under lease to  
10 a family farm unit; a family farm corporation defined in  
11 section 350.010; an alien or foreign business which has  
12 filed with the director under sections 442.560 to 442.592;  
13 or except when controlled through ownership, options,  
14 leaseholds or other agreements by a corporation which has  
15 entered into an agreement with the United States of America  
16 pursuant to the New Community Act of 1968 (Title IV of the  
17 Housing and Urban Development Act of 1969, 42 U.S.C. 3901-  
18 3914), as amended, or a subsidiary or assignee of such a  
19 corporation. **As used in this section, the term "nonfarming"**  
20 **includes, but is not limited to, the conducting and active**  
21 **operation of research or experimentation for the purpose of**  
22 **developing or improving any type of agricultural practice,**  
23 **tool, device, or implement or animal health research, animal**  
24 **nutrition research, raising genetic traits that are used for**  
25 **human or animal research, or animals raised for exhibition.**

Section B. Because of the danger of foreign ownership  
2 of agricultural land, section A of this act is deemed  
3 necessary for the immediate preservation of the public  
4 health, welfare, peace, and safety, and is hereby declared  
5 to be an emergency act within the meaning of the

6 constitution, and section A of this act shall be in full  
7 force and effect upon its passage and approval.

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