

An Act

ENROLLED SENATE
BILL NO. 1705

By: Howard, Pederson, Burns,
and Garvin of the Senate

and

McCall, Hays, Patzkowsky,
Maynard, Moore, Williams,
Bashore, Burns, and
Steagall of the House

An Act relating to alien ownership of land; amending 60 O.S. 2021, Sections 121, as amended by Section 1, Chapter 327, O.S.L. 2023, 124, 125, 126, and 127 (60 O.S. Supp. 2023, Section 121), which relate to prohibition of alien ownership of land; defining terms; adding entities prohibited from certain ownership; providing exemption for resident aliens and foreign government entities under certain circumstances; removing reference to personal property; adding persons authorized to execute certain affidavit; requiring notarization of certain document; providing exemptions to certain requirements; requiring inclusion of specific exemption on recorded deed; authorizing Attorney General to establish additional exemptions; allowing substantial compliance to certain form requirements; changing escheatment to foreclosure for property owned by aliens; providing order of payment for foreclosed property owned by aliens; updating statutory references; updating statutory language; making language gender neutral; and providing an effective date.

SUBJECT: Alien ownership of land

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

SECTION 1. AMENDATORY 60 O.S. 2021, Section 121, as amended by Section 1, Chapter 327, O.S.L. 2023 (60 O.S. Supp. 2023, Section 121), is amended to read as follows:

Section 121. A. As used in Sections 121 through 127 of this title:

1. "Deed" means any instrument in writing whereby land is assigned, transferred, or otherwise conveyed to, or vested in, the person coming into title or, at his or her direction, any other person;

2. "Foreign government adversary" means a government other than the federal government of the United States, the government of any state, political subdivision of the state, tribe, territory, or possession of the United States and designated by the United States Secretary of State as hostile or a Country of Particular Concern (CPC);

3. "Foreign government enterprise" means a business entity, sovereign wealth fund, or state-backed investment fund in which a foreign government adversary holds a controlling interest;

4. "Foreign government entity" means a government other than the federal government of the United States, the government of any state, political subdivision of the state, tribe, territory, or possession of the United States; and

5. "Land" means the same as defined in Section 6 of this title, but shall not include oil, gas, other minerals, or any interest therein.

B. No alien or any person who is not a citizen of the United States or foreign government adversary shall acquire title to or own land in this state either directly or indirectly through a business entity, ~~or~~ trust, or foreign government enterprise, except as hereinafter provided, but ~~he or she~~ they shall have and enjoy in this state such rights as to personal property as are, or shall be, accorded a citizen of the United States under the laws of the nation to which such alien belongs, or by the treaties of such nation with

the United States, except as the same may be affected by the provisions of Section 121 et seq. of this title or the Constitution of this state. Provided, however, the requirements of this subsection shall not apply to a business entity that is engaged in regulated interstate commerce or has a national security agreement with the Committee on Foreign Investment in the United States (CFIUS) in accordance with federal law.

~~B. C.~~ C. On or after the effective date of this act November 1, 2023, any deed recorded with a county clerk shall include as an exhibit to the deed an affidavit executed by the person ~~or~~, the person's attorney-in-fact, a court-appointed guardian or personal representative, an authorized officer of the entity, or trustee of the trust coming into title attesting that the person, business entity, or trust is obtaining the land in compliance with the requirements of this section and that no funding source is being used in the sale or transfer in violation of this section or any other state or federal law. A county clerk shall not accept and record any deed without an affidavit as required by this section which is duly notarized pursuant to Title 49 of the Oklahoma Statutes. The requirements of this subsection shall not apply to a:

1. Deed which, without additional consideration, confirms, corrects, modifies, or supplements a deed previously recorded;

2. Deed made by a grantor to cure a defect in title or effectuate a disclaimer of interest in real property;

3. Transfer-on-death deed made by a grantor designating a grantee beneficiary pursuant to the Nontestamentary Transfer of Property Act, Section 1251 et seq. of Title 58 of the Oklahoma Statutes;

4. State or federal court order in an action to quiet title or to cure a defect in title;

5. State or federal court order or decree in probate, partition, quiet title, and divorce actions;

6. Deed which secures a debt or other obligation, or which releases such property as security for a debt or other obligation;

7. Deed of dedication to the public; or

8. Deed in favor of the United States or any of its political subdivisions, a state or any of its political subdivisions, or a tribe.

The applicable exemption shall be shown on the face of the deed prior to the recording of the deed and no affidavit shall be required.

D. The Attorney General shall promulgate a separate affidavit form for individuals and for business entities or trusts to comply with the requirements of this section, with the exception of those deeds. The Attorney General may establish additional exemptions which the Attorney General deems necessary when promulgating the affidavit form to substantially comply with the requirements of this section. The county clerk may accept an affidavit in substantial compliance with the affidavit form promulgated by the Attorney General.

SECTION 2. AMENDATORY 60 O.S. 2021, Section 124, is amended to read as follows:

Section 124. Any alien who shall hereafter hold lands in ~~the State of Oklahoma~~ this state in contravention of the provisions of this article, may nevertheless convey the fee simple title thereof at any time before the institution of ~~escheat~~ foreclosure proceedings as hereinafter provided~~+~~. Provided, however, that if any such conveyance shall be made by such alien either to an alien or a citizen of the United States in trust, and for the purpose and with the intention of evading the provisions of this article, or the provisions of the Constitution of this state, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and ~~escheated to the state~~ absolutely foreclosed upon.

SECTION 3. AMENDATORY 60 O.S. 2021, Section 125, is amended to read as follows:

Section 125. It shall be the duty of the Attorney General or the district attorney of the county where the land is ~~situate~~ situated, when he or she shall be informed or have reason to believe that any lands in the state are being held contrary to the

provisions of ~~this act~~ Section 121 et seq. of this title, or the provisions of the Constitution of this state, to institute suit in behalf of ~~the State of Oklahoma~~ this state in the district court of the county in which ~~said~~ such lands are ~~situate~~ situated, praying for the ~~escheat~~ foreclosure of the same ~~in behalf of the state, and proceed therein as in cases provided by law for escheats of lands or property where such property has no known owner:~~. Provided, that before any such suit is instituted, the Attorney General, or district attorney aforesaid, as the case may be, shall give thirty (30) days' notice by registered letter of his or her intention to sue, directed to the owner of the lands, at his or her last-known post office address or to the persons who last rendered the same for taxes, or to any known agents of the owner; proof of having mailed such registered letter shall be deemed and held prima facie evidence of the giving of such notice.

SECTION 4. AMENDATORY 60 O.S. 2021, Section 126, is amended to read as follows:

Section 126. In case the lands, at the time ~~escheat~~ foreclosure proceedings are about to be commenced, are owned by minors, or by persons of unsound mind, such notice shall be addressed to the guardian of the ~~said~~ minors, or persons of unsound mind, and if there is no such guardian, the Attorney General of the state, or district attorney shall make application in the name of the state to the court and procure the appointment of a guardian ad litem to represent such minor, or person of unsound mind in such proceedings; thereafter the district attorney shall direct the clerk of such court to ascertain the residence or ~~postoffice~~ post office address of the next of kin of such minor, or person of unsound mind, and to transmit to such next of kin a copy of the petition or application to ~~escheat~~ foreclose such lands, and such minor or person of unsound mind shall have ninety (90) days after the mailing of such notice to appear and defend the action.

SECTION 5. AMENDATORY 60 O.S. 2021, Section 127, is amended to read as follows:

Section 127. If it shall be determined upon the trial of any such ~~escheat~~ foreclosure proceedings that lands are held contrary to the provisions of this article, or the Constitution of this state, the court trying ~~said~~ such cause shall render judgment condemning

such lands, and order the same to be sold under the order of court, at such time, terms, and conditions as to the court may seem best; the proceeds of such sale, after deducting the cost of the proceeding, shall be paid to any lienholders of the property if applicable, then the rest shall be paid to the clerk of the court rendering the judgment where the same shall remain for one (1) year from the date of such payment, subject to the order of the alien owner of such lands, his or her heirs and legal representatives, and if not claimed within the period of one (1) year, such clerk shall pay the same into the ~~treasury of the state~~ State Treasury for the benefit of the available school fund of the ~~State~~ state. Provided, that when any money shall have been paid to the State Treasurer as hereinabove provided, an alien or his or her heirs may procure the same to be returned by applying for and procuring an order from the court condemning the property showing that such judgment ~~escheating said~~ foreclosing the property was procured by fraud, or mistake, or that there was material irregularity in the proceedings; this application, however, must be made within two (2) years from the date such monies were turned over into the State Treasury; and in no event shall the state be liable or called on to refund any further sum than the actual cash transmitted and delivered to such ~~Treasurer~~. Provided, ~~further~~, that the defendant in such ~~escheat~~ foreclosure proceedings may at any time before final judgment suggest and prove to the court, ~~that he~~ or she has conformed to, ~~or~~ complied with the law, under and by which ~~they~~ he or she will be entitled to hold such estate; which, it being admitted or proved, ~~said the~~ suit shall be dismissed on payment by defendant of the costs and reasonable ~~attorney's~~ attorney fees, to be fixed by the court.

SECTION 6. This act shall become effective November 1, 2024.

Passed the Senate the 30th day of May, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 30th day of May, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____