

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 138
102ND GENERAL ASSEMBLY

0556H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 442.566, 442.571, 442.576, and 442.591, RSMo, and to enact in lieu thereof five new sections relating to agriculture, with an emergency clause for certain sections.

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

Section A. Sections 442.566, 442.571, 442.576, and 442.591, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 262.911, 442.566,
3 442.571, 442.576, and 442.591, to read as follows:

**262.911. 1. The department of economic development shall promote Missouri
2 hardwood forest products and educate the public on the value and benefits of such
3 hardwood products. The department may contract with any statewide association
4 dedicated to the promotion of Missouri hardwood forest products to satisfy the
5 requirements of this section.**

6 **2. (1) There is hereby created in the state treasury the "Missouri Hardwood
7 Forest Product Promotion Fund", which shall consist of any grants, gifts, devises,
8 bequests, and moneys appropriated by the general assembly to the fund. The state
9 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,
10 the state treasurer may approve disbursements. The fund shall be a dedicated fund and,
11 upon appropriation, moneys in this fund shall be used solely to promote and educate
12 about Missouri hardwood forest products as provided in this section.**

13 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
14 remaining in the fund at the end of the biennium shall not revert to the credit of the
15 general revenue fund.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **(3) The state treasurer shall invest moneys in the fund in the same manner as**
17 **other funds are invested. Any interest and moneys earned on such investments shall be**
18 **credited to the fund.**

19 **3. Under section 23.253 of the Missouri sunset act:**

20 **(1) The provisions of the new program authorized under this section shall**
21 **automatically sunset six years after the effective date of this section unless reauthorized**
22 **by an act of the general assembly; and**

23 **(2) If such program is reauthorized, the program authorized under this section**
24 **shall automatically sunset twelve years after the effective date of the reauthorization of**
25 **this section; and**

26 **(3) This section shall terminate on September first of the calendar year**
27 **immediately following the calendar year in which the program authorized under this**
28 **section is sunset.**

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

3 (1) "Agricultural land", any tract of land in this state consisting of more than five
4 acres, whether inside or outside the corporate limits of any municipality, which is capable,
5 without substantial modification to the character of the land, of supporting an agricultural
6 enterprise, including but not limited to land used for the production of agricultural crops or
7 fruit or other horticultural products, or for the raising or feeding of animals for the production
8 of livestock or livestock products, poultry or poultry products, or milk or dairy products.
9 Adjacent parcels of land under the same ownership shall be deemed to be a single tract;

10 (2) "Alien", any person who is not a citizen of the United States and who is not a
11 resident of the United States or of some state, territory, trusteeship, or protectorate of the
12 United States;

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

14 (4) "Family members" includes all persons within the ninth degree of consanguinity,
15 or the living or surviving spouse of any person within the ninth degree of consanguinity;

16 (5) "Foreign business", any business entity whether or not incorporated, including but
17 not limited to **companies, corporations, professional corporations, nonprofit corporations,**
18 **limited liability companies, partnerships, limited partnerships, ~~and~~ associations, or the**
19 **equivalent of any entity listed in this subdivision, in which a controlling interest is owned**
20 **by aliens or organized under the laws of a foreign country, or both.** In determining
21 ownership of a foreign business, legal fictions such as corporate form or trust shall be
22 disregarded;

23 (6) "Residence", the place of general abode; the place of general abode of a person
24 means his principal, actual dwelling place in fact, where he intends to remain permanently or
25 for an indefinite period of time at least.

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

2. Any alien ~~[or]~~, foreign business, **or foreign government** who acquires agricultural
18 land in violation of sections 442.560 to 442.592 remains in violation of sections 442.560 to
19 442.592 for as long as ~~[he or she]~~ **the alien, foreign business, or foreign government** holds
20 an interest in the land, provided, however, that no security interest in such agricultural land
21 shall be divested or invalidated by such violation.

3. Subject to the provisions of subsection 1 of this section, ~~[such]~~ **all proposed
23 [acquisitions] transfers on or after the effective date of this section,** by grant, purchase,
24 devise, descent, or otherwise of **any interest in agricultural land held by any alien, foreign
25 business, or foreign government** in this state shall be submitted **at least thirty calendar
26 days prior to when such transfers of such agricultural land are finalized** to the
27 department of agriculture to determine whether such ~~[acquisition]~~ **transfer** of agricultural
28 land, **or if land usage changes,** is conveyed in accordance with the ~~[one percent restriction on
29 the total aggregate]~~ **prohibition on** alien and foreign ownership of agricultural land in this
30 state **under this section. Such sale or transfer submitted for review shall be deemed a
31 closed record under chapter 610 until such sale is finalized.** The department shall
32 establish by rule the requirements for submission and approval of requests under this
33 subsection.

34 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
35 created under the authority delegated in this section shall become effective only if it complies
36 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
37 This section and chapter 536 are nonseverable and if any of the powers vested with the
38 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
39 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
40 rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid
41 and void.

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

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

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

442.591. The restrictions set forth in sections 442.560 to 442.592 shall not apply to
2 agricultural land or any interest therein acquired by an alien ~~[or]~~, foreign business, **or foreign**
3 **government** for immediate or potential use in nonfarming purposes. An alien ~~[or]~~, foreign
4 business, **or foreign government** may hold such agricultural land in such acreage as may be
5 necessary to its nonfarm business operation; provided, however, that pending the
6 development of agricultural land for nonfarm purposes, such land may not be used for
7 farming except under lease to a family farm unit; a family farm corporation defined in section

8 350.010; an alien [ø], foreign business, **or foreign government** which has filed with the
9 director under sections 442.560 to 442.592; or except when controlled through ownership,
10 options, leaseholds or other agreements by a corporation which has entered into an agreement
11 with the United States of America pursuant to the New Community Act of 1968 (Title IV of
12 the Housing and Urban Development Act of 1969, 42 U.S.C. 3901-3914), as amended, or a
13 subsidiary or assignee of such a corporation. **As used in this section, the term**
14 **"nonfarming" includes, but is not limited to, the conducting and active operation of**
15 **research or experimentation for the purpose of developing or improving any type of**
16 **agricultural practice, tool, device, or implement or animal health research, animal**
17 **nutrition research, raising genetic traits that are used for human or animal research, or**
18 **animals raised for exhibition.**

Section B. Because of the dangers of foreign ownership of agricultural land, the
2 repeal and reenactment of sections 442.566, 442.571, 442.576, and 442.591 of section A of
3 this act is deemed necessary for the immediate preservation of the public health, welfare,
4 peace, and safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and the repeal and reenactment of sections 442.566, 442.571, 442.576, and
6 442.591 of section A of this act shall be in full force and effect upon its passage and approval.

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