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Farm Ownership & Corporate Farming Laws: *Indiana*



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Farm Ownership & Corporate Farming Laws: Indiana

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- 1) Prohibition: Ind. Code Ann. §§ 1-1-16-6, 9 to 11; §§ 32-22-3-0.5 to 32-22-3-6.5
- 2) Permission: Ind. Code Ann. §§ 32-22-2-1; 32-22-2-5
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- 4) Corporate Farming: Ind. Code Ann. § 1-1-16-6, 9 to 11; §§ 32-22-3-0.5 to 32-22-3-6.5

Ind. Code Ann. §§ 1-1-16-6, 9 to 11

Ind. Code Ann. § 32-22-2-1

Ind. Code Ann. § 32-22-2-5

Ind. Code Ann. §§ 32-22-3-0.5 to 32-22-3-6.5

Current with all legislation of the 2024 Regular Session of the 123rd Indiana General Assembly effective through July 1, 2024.

§ 1-1-16-6. “Prohibited person”

As used in this chapter, “prohibited person” means either of the following:

- (1) An individual who is a citizen of China, Iran, North Korea, Russia, or a country designated as a threat to critical infrastructure by the governor under section 8(b) of this chapter.
- (2) A company described in section 9(a)(2) of this chapter.

§ 1-1-16-9. Restrictions on critical infrastructure agreements with companies

(a) After June 30, 2023, a qualified entity may not enter into an agreement relating to critical infrastructure with a company if:

- (1) under the agreement, the company would be able to directly or remotely access or control critical infrastructure or a cybersecurity system of a critical infrastructure; and
- (2) the company is:
 - (A) owned by, or the majority of stock or other ownership interest of the company is held or controlled by:



(i) individuals who are citizens of China, Iran, North Korea, Russia, or a country designated as a threat to critical infrastructure by the governor under section 8(b) of this chapter; or

(ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of, or is directly controlled by the government of, China, Iran, North Korea, Russia, or a country designated as a threat to critical infrastructure by the governor under section 8(b) of this chapter; or

(B) headquartered in China, Iran, North Korea, Russia, or a country designated as a threat to critical infrastructure by the governor under section 8(b) of this chapter.

(b) The prohibition set forth in subsection (a) applies regardless of whether:

(1) the securities of the company, or of the company's parent company, are publicly traded; or

(2) the company or the company's parent company is listed as a company of a country designated as a threat by the governor under section 8(b) of this chapter or a Chinese, Iranian, North Korean, or Russian company on a public stock exchange;

§ 1-1-16-10. Prohibition on acquisition of real property adjacent to military installations

(a) After June 30, 2023, a prohibited person may not purchase, lease, or acquire a parcel of real property that is:

(1) located in Indiana; and

(2) directly adjacent to a military installation.

(b) A purchase, lease, or acquisition of a parcel of real property in violation of subsection (a) is subject to divestiture pursuant to section 11 of this chapter.

(c) No title to real property shall be invalid or subject to divestiture by reason of the violation of this section by any former owner or other individual or entity holding or owning a former interest in the real property.

§ 1-1-16-10.2. Prohibited interest in real property near military bases; divestiture

(a) This section does not apply to

(1) a lease for residential property (as defined in IC 6-1.1-20.6-4) or a dwelling unit (as defined in IC 32-31-5-3);

(2) the purchase, lease, or acquisition of real property by an individual who holds dual citizenship with the United States and China, Iran, North Korea, Russia, or a country designated as a threat to critical infrastructure by the governor under section 8(b) of this chapter; or



(3) the purchase, lease, or acquisition of real property by an individual who is a lawful permanent resident of the United States.

(b) After June 30, 2024, a prohibited person may not purchase, lease, or acquire a parcel of real property that is:

(1) located in Indiana; and

(2) located within a ten (10) mile radius of a military installation.

(c) A purchase, lease, or acquisition of a parcel of real property in violation of subsection (b) is subject to divestiture pursuant to section 11 of this chapter.

(d) No title to real property shall be invalid or subject to divestiture by reason of the violation of this section by any former owner or other individual or entity holding or owning a former interest in the real property.

§ 1-1-16-11. Attorney general's authority to investigate and enforce violation of real property acquisition restrictions

(a) The attorney general may investigate the purchase, lease, or acquisition of real property upon receipt of a complaint alleging a violation of section 10 of this chapter.

(b) The attorney general shall enforce a violation of section 10 of this chapter by commencing a receivership proceeding under IC 32-30-5-1 and selling the property through the receivership. The following apply to a receivership proceeding under this section:

(1) Proceeds of the sale shall be disbursed to lienholders, in their order of priority, except for liens which under the terms of the sale are to remain on the property.

(2) At the receivership sale, lienholders shall be able to have a credit bid.

(3) No proceeds shall be distributed from the receivership sale to the prohibited person. Any excess proceeds are forfeited and shall be transferred to the state general fund by the receiver.

(4) Upon commencement of an action under this section, the attorney general shall promptly file a notice of lis pendens with the clerk of court. Upon the entry order for the sale of the property under this section, the attorney general shall promptly record a copy of the order in the office of the recorder of the county where the property is located.

(c) The responsibility for determining whether an individual or other entity is subject to section 10 of this chapter rests solely with the prohibited person and the attorney general and no other individual or entity. An individual or other entity who is not a prohibited person shall bear no civil or criminal liability for failing to determine or make inquiry of whether an individual or other entity is a prohibited person.



(d) Divestiture of a prohibited person's title under this section shall not be a basis to void, invalidate, or otherwise extinguish any bona fide mortgage, lien, or other interest granted by, through, or under the prohibited person.

§ 32-22-2-1. Alien ownership prior to November 1, 1851

The title of any resident of Indiana who was in actual possession of any land on or before November 1, 1851, or the title of any person holding under the resident may not be defeated or prejudiced by:

- (1) the alienism of the resident; or
- (2) the alienism of any other person through whom the resident's title was derived.

§ 32-22-2-5. Natural persons who are aliens; right to acquire, hold and convey real estate

(a) Natural persons who are aliens, whether they reside in the United States or any foreign country, subject to section 7 of this chapter, may:

- (1) acquire real estate by purchase, devise, or descent;
- (2) hold and enjoy real estate; and
- (3) convey, devise, transmit, mortgage, or otherwise encumber real estate;

in the same manner and with the same effect as citizens of Indiana or the United States.

(b) The title of any real estate inherited, mortgaged, conveyed, or devised is not affected by the alienage of any person from or through whom the title is claimed or derived.

§ 32-22-3-0.5. Application; exemptions

(a) Except as provided in section 4.5 of this chapter, the prohibition on ownership of agricultural land established by this chapter does not apply to the following:

- (1) Agricultural land that is used for research or experimental purposes, including testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock.
- (2) The acquisition by a foreign business entity of agricultural land or an interest in agricultural land that is located within Indiana:
 - (A) that is used for crop farming and that is not more than three hundred twenty (320) acres; or
 - (B) that is used for timber production and that is not more than ten (10) acres.



(3) As used in this subdivision, "confined feeding operation" has the meaning set forth in IC 13-11-2-40. The acquisition by a foreign business entity of a confined feeding operation or agricultural land on which to construct a confined feeding operation.

(4) Agricultural land used for raising or producing eggs or poultry, including hatcheries and other ancillary activities.

(b) This chapter does not affect the ability of a foreign business entity to hold or acquire by grant, purchase, devise, descent, or otherwise agricultural land in such acreage as may be necessary to its business operations for purposes other than crop farming or timber production.

§ 32-22-3-1. "Agricultural Land"

As used in this chapter, "agricultural land" means land for use in crop farming or timber production or as pasture land.

§ 32-22-3-2. "Crop farming"

As used in this chapter, "crop farming" means the cultivation of land for the production of agricultural crops, consisting of plants or plant products that can be grown and harvested exclusively for profit or subsistence.

§ 32-22-3-3. "Foreign business entity"

(a) As used in this chapter, "foreign business entity" means:

- (1) a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, or limited partnership that is organized under the laws of another country; or
- (2) the equivalent of any entity described in subdivision (1).

(b) The term includes an agent, trustee, or fiduciary of the foreign business entity.

§ 32-22-3-3.5. "Prohibited person"

As used in this chapter, "prohibited person" includes:

- (1) an individual who is a citizen of a foreign adversary (as defined in 15 CFR 7.4); or
- (2) a business entity that is:
 - (A) wholly owned by, or the majority of stock or other ownership interest of the business entity is held or controlled by:
 - (i) individuals who are citizens of a foreign adversary (as defined in 15 CFR 7.4); or



(ii) a business entity or another entity, including a governmental entity, that is owned or controlled by citizens of, or is directly controlled by the government of, a foreign adversary (as defined in 15 CFR 7.4); or

(B) headquartered in a foreign adversary (as defined in 15 CFR 7.4).

The term, as used in subdivisions (1) and (2)(A)(i), does not include an individual who holds dual citizenship with a foreign adversary (as defined in 15 CFR 7.4) and the United States or an individual who is a lawful permanent resident of the United States.

§ 32-22-3-4. Acquisition by grant, purchase, devise, descent

(a) Except as provided in section 0.5 of this chapter, after June 30, 2022, a foreign business entity may not acquire by grant, purchase, devise, descent, or otherwise any agricultural land located within Indiana for the purposes of crop farming or timber production.

(b) Except as provided in section 0.5 of this chapter, a foreign business entity that acquired agricultural land located within Indiana for the purposes of crop farming before July 1, 2022, may not grant, sell, or otherwise transfer the agricultural land to any other foreign business entity for the purposes of crop farming after June 30, 2022.

§ 32-22-3-4.5. Prohibited interests in agricultural land; divestiture

(a) This section does not apply to agricultural land on which there has been no agricultural activity in the last five (5) years, unless the agricultural land is recognized by the United States Department of Agriculture's Farm Service Agency as farmland.

(b) After June 30, 2024, a prohibited person may not do any of the following:

(1) Acquire by grant, purchase, devise, descent, or otherwise any agricultural land located in Indiana.

(2) Enter into a lease agreement as a lessee for any agricultural land located in Indiana. This subdivision does not apply to the renewal of a lease for agricultural land that is in place prior to July 1, 2024, if the acreage and description of the agricultural land subject to the lease does not change.

(3) Acquire by grant, purchase, devise, descent, or otherwise any mineral right or water or riparian right on any agricultural land located in Indiana.

(4) Enter into a lease agreement as a lessee for any mineral right or water or riparian right on any agricultural land located in Indiana.

(c) A person who is not a prohibited person is not civilly or criminally liable for failing to determine or inquire if a person is a prohibited person under this section.

(d) A purchase, acquisition, or lease of agricultural land in violation of this section is subject to divestiture pursuant to section 6.5 of this chapter.



(e) No title to agricultural land shall be invalid or subject to divestiture by reason of a violation of this section by any former owner or other individual or entity holding or owning a former interest in the agricultural land.

§ 32-22-3-5. Purpose other than crop farming or timber production

In the case of agricultural land for which development of the agricultural land for a purpose other than crop farming or timber production is pending, the agricultural land may be leased to a person who is not subject to this chapter for crop farming or timber production.

§ 32-22-3-6. For the purposes of crop farming or timber production after June 30, 2022; reporting

(a) A foreign business entity that acquires, sells, or transfers agricultural land located within Indiana for the purposes of crop farming or timber production after June 30, 2022, must report the acquisition, sale, or transfer to:

- (1) the secretary of state; and
- (2) the attorney general;

not later than thirty (30) days after the acquisition, sale, or transfer of the agricultural land is finalized. The report must be made in the form and manner prescribed by the secretary of state. The attorney general shall review the reports that the attorney general receives under this subsection and investigate an acquisition, sale, or transfer of agricultural land if the attorney general believes the acquisition, sale, or transfer of agricultural land violates section 4 of this chapter.

(b) All agricultural land acquired, sold, or transferred in violation of section 4 of this chapter is subject to forfeiture to the state. The attorney general shall enforce a forfeiture under this subsection.

§ 32-22-3-6.5. Attorney general investigation and enforcement

(a) Upon receipt of information that leads the attorney general to believe an acquisition or lease of agricultural land violates section 4.5 of this chapter, the attorney general shall investigate the alleged violation and may issue subpoenas requiring the:

- (1) appearance of witnesses;
- (2) production of relevant records; and
- (3) giving of relevant testimony.

(b) The attorney general shall enforce a violation of section 4.5 of this chapter by commencing a receivership proceeding under IC 32-30-5-1 and selling the



agricultural land through the receivership. The following apply to a receivership proceeding under this section:

(1) Proceeds of the sale shall be paid as follows:

(A) The costs of the receivership and sale.

(B) To lienholders, in their order of priority, except for liens which under the terms of the sale are to remain on the property.

(C) No proceeds shall be distributed from the receivership sale to the prohibited person. Any excess proceeds are forfeited and shall be transferred to the state general fund by the receiver. (2) At the receivership sale, lienholders shall be able to have a credit bid in an amount that is not more than the amount owed to the lienholder on the date of the sale, as established in the court order for the sale of the property.

(2) At the receivership sale, lienholders shall be able to have a credit bid in an amount that is not more than the amount owed to the lienholder on the date of the sale, as established in the court order for the sale of the property.

(3) Upon commencement of an action under this section, the attorney general shall promptly file a notice of lis pendens with the clerk of court. Upon the entry of an order for the sale of the property under this section, the attorney general shall promptly record a copy of the order in the office of the recorder of the county where the property is located.

(c) The responsibility for determining whether an individual or other entity is subject to section 4.5 of this chapter rests solely with the prohibited person and the attorney general and no other individual or entity. An individual or other entity who is not a prohibited person shall bear no civil or criminal liability for failing to determine or make inquiry of whether an individual or other entity is a prohibited person.

(d) Divestiture of a prohibited person's title under this section shall not be a basis to void, invalidate, or otherwise extinguish any bona fide mortgage, lien, or other interest granted by, through, or under the prohibited person.

